Amendment No. 14 by Mr. MCCARTHY of California.

Amendment No. 16 by Mr. PETERS of Michigan.

The Chair will reduce to 5 minutes the time for any electronic vote after the first vote in this series.

AMENDMENT NO. 12 OFFERED BY MR. KANJORSKI

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Pennsylvania (Mr. KANJORSKI) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. KANJORSKI:

Page 11, in the item relating to section 7606, strike ''Exemption for Nonaccelerated Filers'' and insert ''Study on methods to reduce the burden of compliance on small companies''.

Page 1221, line 19, strike ''EXEMPTION FOR NONACCELERATED FILERS'' and insert ''STUDY ON METHODS TO REDUCE THE BURDEN OF COMPLIANCE ON SMALL COMPANIES''.

Page 1221, strike lines 20 through 25.

Page 1222. strike lines 1 through 2.

Page 1222, on line 3, strike ''(b) STUDY.—'' and adjust the indentation appropriately.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 153, noes 271, not voting 16, as follows:

[Roll No. 960]

AYES—153

Abercrombie	Eshoo	Lewis (GA)
Ackerman	Farr	Lipinski
Andrews	Fattah	Loebsack
Becerra	Frank (MA)	Lowey
Berkley	Fudge	Lynch
Berman	Garamendi	Maloney
Bishop (NY)	Giffords	Markey (MA)
Blumenauer	Gonzalez	Massa
Boswell	Grayson	Matsui
Brady (PA)	Green, Al	McDermott
Braley (IA)	Green, Gene	McGovern
Brown, Corrine	Grijalva	Meek (FL)
Butterfield	Gutierrez	Michaud
Capps	Hare	Miller (NC)
Capuano	Harman	Miller, George
Carson (IN)	Hastings (FL)	Moore (KS)
Castor (FL)	Higgins	Moore (WI)
Christensen	Himes	Murphy (CT)
Chu	Hinchey	Murphy, Patrick
Clarke	Hirono	Nadler (NY)
Clay	Hodes	Napolitano
Cleaver	Holt	Norton
Clyburn	Hoyer	Oberstar
Cohen	Israel	Obey
Conaway	Jackson (IL)	Olver
Conyers	Jackson-Lee (TX)	Pallone
Courtney	Johnson (GA)	Pascrell
Crowley	Johnson, E. B.	Pastor (AZ)
Cummings	Kanjorski	Payne
Dahlkemper	Kaptur	Perlmutter
Davis (CA)	Kennedy	Pingree (ME)
Davis (IL)	Kildee	Price (NC)
DeFazio	Kilpatrick (MI)	Rahall
DeGette	Kilroy	Rangel
Delahunt	Klein (FL)	Reyes
DeLauro	Kratovil	Rodriguez
Dingell	Kucinich	Rothman (NJ)
Doggett	Langevin	Roybal-Allard
Doyle	Larson (CT)	Sánchez, Linda T.
Edwards (MD)	Lee (CA)	Sarbanes
Ellison	Levin	Schakowsky
Engel		

Schiff	Taylor	Waters
Scott (GA)	Thompson (CA)	Watson
Serrano	Thompson (MS)	Watt
Sestak	Tierney	Waxman
Shea-Porter	Tonko	Weiner
Sherman	Towns	Welch
Sires	Tsongas	Wilson (OH)
Speier	Van Hollen	Woolsey
Stark	Wasserman Schultz	Wu
Sutton		Yarmuth

NOES—271

Adler (NJ)	Foster	Mica
Akin	Foxx	Miller (FL)
Alexander	Franks (AZ)	Miller (MI)
Altmire	Frelinghuysen	Miller, Gary
Arcuri	Gallegly	Minnick
Austria	Garrett (NJ)	Mitchell
Baca	Gerlach	Mollohan
Bachus	Gingrey (GA)	Moran (KS)
Baird	Gohmert	Murphy (NY)
Barrow	Goodlatte	Murphy, Tim
Bartlett	Gordon (TN)	Myrick
Barton (TX)	Granger	Neal (MA)
Bean	Graves	Neugebauer
Berry	Griffith	Nunes
Biggert	Guthrie	Nye
Bilbray	Hall (NY)	Olson
Bilirakis	Hall (TX)	Ortiz
Bishop (GA)	Halvorson	Owens
Bishop (UT)	Harper	Paul
Blackburn	Hastings (WA)	Paulsen
Blunt	Heinrich	Pence
Boccieri	Heller	Perriello
Boehner	Hensarling	Peters
Bonner	Herger	Peterson
Bono Mack	Herseth Sandlin	Petri
Boozman	Hill	Pitts
Boren	Hinojosa	Platts
Boucher	Hoekstra	Poe (TX)
Boustany	Holden	Polis (CO)
Boyd	Honda	Pomeroy
Brady (TX)	Hunter	Posey
Bright	Inglis	Price (GA)
Broun (GA)	Inslee	Putnam
Brown (SC)	Issa	Quigley
Brown-Waite, Ginny	Jenkins	Rehberg
Buchanan	Johnson (IL)	Reichert
Burgess	Johnson, Sam	Richardson
Burton (IN)	Jones	Roe (TN)
Buyer	Jordan (OH)	Rogers (AL)
Calvert	Kagen	Rogers (KY)
Camp	Kind	Rogers (MI)
Campbell	King (IA)	Rohrabacher
Cantor	King (NY)	Rooney
Cao	Kingston	Ros-Lehtinen
Capito	Kirk	Roskam
Cardoza	Kirkpatrick (AZ)	Ross
Carnahan	Kissell	Royce
Carney	Kline (MN)	Ruppersberger
Carter	Kosmas	Rush
Cassidy	Lamborn	Ryan (OH)
Castle	Lance	Ryan (WI)
Chaffetz	Larsen (WA)	Sablan
Chandler	Latham	Salazar
Childers	LaTourette	Sanchez, Loretta
Coble	Latta	Scalise
Coffman (CO)	Lee (NY)	Schauer
Cole	Lewis (CA)	Schmidt
Connolly (VA)	Linder	Schock
Cooper	LoBiondo	Schrader
Costa	Lucas	Schwartz
Costello	Luetkemeyer	Scott (VA)
Crenshaw	Luján	Sensenbrenner
Cuellar	Lummis	Shadegg
Culberson	Lungren, Daniel E.	Shimkus
Davis (AL)	Mack	Shuler
Davis (KY)	Maffei	Shuster
Davis (TN)	Manzullo	Simpson
Deal (GA)	Marchant	Skelton
Dent	Markey (CO)	Smith (NE)
Diaz-Balart, L.	Marshall	Smith (NJ)
Diaz-Balart, M.	Matheson	Smith (TX)
Dicks	McCarthy (CA)	Smith (WA)
Donnelly (IN)	McCarthy (NY)	Snyder
Dreier	McCaul	Souder
Driehaus	McClintock	Space
Duncan	McCollum	Spratt
Edwards (TX)	McCotter	Stearns
Ehlers	McHenry	Stupak
Ellsworth	McIntyre	Sullivan
Emerson	McKeon	Tanner
Etheridge	McMahon	Teague
Fallin	McMorris Rodgers	Terry
Flake	McNerney	Thompson (PA)
Fleming	Meeks (NY)	Thornberry
Forbes	Melancon	Tiahrt
Fortenberry		Tiberi
		Titus
		Turner
		Upton
		Velázquez
		Visclosky
		Walden
		Walz
		Wamp
		Westmoreland
		Whitfield
		Wilson (SC)
		Wittman
		Wolf
		Young (FL)

NOT VOTING—16

Aderholt	Filner	Sessions
Bachmann	Lofgren, Zoe	Slaughter
Baldwin	Moran (VA)	Wexler
Barrett (SC)	Murtha	Young (AK)
Bordallo	Pierluisi	
Faleomavaega	Radanovich	

□ 1114

Mr. OWENS, Ms. LORETTA T. SANCHEZ of California, Messrs. DICKS, KAGEN, NEAL of Massachusetts, Ms. RICHARDSON, Messrs. HINOJOSA, MEEKS of New York, BACA, INSLEE, and HONDA changed their vote from ''aye'' to ''no.''

Messrs. KRATOVIL, RANGEL, LARSON of Connecticut, and BERMAN changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. FILNER. Madam Speaker, on rollcall 960, I was away from the Capitol. Had I been present, I would have voted "aye."

AMENDMENT NO. 14 OFFERED BY MR. MCCARTHY OF CALIFORNIA

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from California (Mr. MCCARTHY) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. MCCARTHY:

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. MCCARTHY of California.

Strike section 6012 (relating to ''Effect of Rule 436(G)'').

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 166, noes 259, not voting 15, as follows:

Roll No. 961

AYES—166

Aderholt	Bonner	Cao
Akin	Bono Mack	Capito
Alexander	Boozman	Carter
Austria	Boustany	Cassidy
Bachmann	Brady (TX)	Castle
Bachus	Broun (GA)	Chaffetz
Bartlett	Brown (SC)	Coble
Barton (TX)	Buchanan	Coffman (CO)
Biggert	Burgess	Cohen
Bilbray	Burton (IN)	Cole
Bilirakis	Buyer	Conaway
Bishop (UT)	Calvert	Crenshaw
Blackburn	Camp	Culberson
Blunt	Campbell	Davis (KY)
Boehner	Cantor	Deal (GA)

Dent
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson, Sam
Jordan (OH)
King (IA)
King (NY)
Kingston
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMahon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Shadegg
Shimkus
Shuler
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Speier
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf

NOES—259

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Christensen
Chu
Clarke
Clay
Cleaver
Clyburn
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Fortenberry
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gohmert
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson (IL)
Johnson, E. B.
Jones
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Norton
Nye
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Skelton
Smith (WA)
Snyder
Souder
Space
Spratt
Stark
Stearns
Stupak
Sutton
Tanner
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Woolsey
Wu
Yarmuth
Young (FL)

NOT VOTING—15

Baldwin
Barrett (SC)
Bordallo
Faleomavaega
Higgins
Kirk
Lofgren, Zoe
Moran (VA)
Murtha
Pierluisi
Radanovich
Sessions
Slaughter
Wexler
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining on this vote.

□ 1121

Mr. LARSON of Connecticut changed his vote from ''aye'' to ''no.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. KIRK. Madam Chair, on rollcall No. 961 I was unavoidably detained. Had I been present, I would have voted "no."

Ms. SPEIER. Madam Chair, during rollcall vote No. 961 on H.R. 4173, I mistakenly recorded my vote as ''aye'' when I should have voted "no."

AMENDMENT NO. 16 OFFERED BY MR. PETERS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Michigan (Mr. PETERS) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 228, noes 198, not voting 14, as follows:

[Roll No. 962]

AYES—228

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Baca
Baird
Bean
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Butterfield
Capps
Capuano
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Christensen
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gonzalez
Grayson
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E.B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kucinich
Langevin
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lowey
Luján
Lynch
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Murphy (CT)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Norton
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Pingree (ME)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Snyder
Space
Speier
Stark
Stupak
Sutton
Tanner
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Woolsey
Wu
Yarmuth

NOES—198

Aderholt
Akin
Alexander
Arcuri
Austria
Bachmann
Bachus
Barrow
Bartlett
Barton (TX)
Berry
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Cardoza
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Cooper
Costa
Crenshaw
Culberson
Davis (KY)
Davis (TN)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Etheridge
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)

Gerlach	Lungren, Daniel E.	Rogers (AL)
Gingrey (GA)	Mack	Rogers (KY)
Gohmert	Maffei	Rogers (MI)
Goodlatte	Manzullo	Rohrabacher
Gordon (TN)	Marchant	Rooney
Granger	McCarthy (CA)	Ros-Lehtinen
Graves	McCaul	Roskam
Griffith	McClintock	Ross
Guthrie	McCotter	Royce
Hall (TX)	McHenry	Ryan (WI)
Harper	McKeon	Scalise
Hastings (WA)	McMahon	Schmidt
Heller	McMorris Rodgers	Schock
Hensarling	Mica	Sensenbrenner
Herger	Miller (FL)	Shadegg
Hoekstra	Miller (MI)	Shimkus
Hunter	Miller, Gary	Shuster
Inglis	Moore (WI)	Simpson
Issa	Moran (KS)	Smith (NE)
Jenkins	Murphy (NY)	Smith (NJ)
Johnson (IL)	Murphy, Tim	Smith (TX)
Johnson, Sam	Myrick	Smith (WA)
Jones	Neugebauer	Souder
Jordan (OH)	Nunes	Spratt
Kind	Nye	Stearns
King (IA)	Olson	Sullivan
King (NY)	Paul	Taylor
Kingston	Paulsen	Terry
Kirk	Pence	Thompson (PA)
Kline (MN)	Peterson	Thornberry
Kratovil	Petri	Tiahrt
Lamborn	Pitts	Tiberi
Lance	Platts	Turner
Latham	Poe (TX)	Upton
LaTourette	Polis (CO)	Visclosky
Latta	Posey	Walden
Lee (NY)	Price (GA)	Wamp
Lewis (CA)	Putnam	Westmoreland
Linder	Rehberg	Whitfield
LoBiondo	Reichert	Wilson (SC)
Lucas	Roe (TN)	Wittman
Luetkemeyer	Rogers (AL)	Wolf
Lummis	Rogers (KY)	Young (FL)

NOT VOTING—14

Baldwin	Lofgren, Zoe	Sessions
Barrett (SC)	Moran (VA)	Slaughter
Bordallo	Murtha	Wexler
Faleomavaega	Pierluisi	Young (AK)
Green, Al	Radanovich	

The Acting CHAIRMAN. There are 2 minutes remaining on this vote.

□ 1129

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1130

AMENDMENT NO. 35 OFFERED BY MR. MINNICK

The Acting CHAIR. It is now in order to consider amendment No. 35 printed in House Report 111–370.

Mr. MINNICK. I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 35 offered by Mr. MINNICK:

Strike title IV and insert the following:

TITLE IV—CONSUMER FINANCIAL PROTECTION ACT

SECTION 4001. SHORT TITLE.

This title may be cited as the ''Consumer Financial Protection Act of 2009''.

SEC. 4002. CONSUMER FINANCIAL PROTECTION COUNCIL.

(a) ESTABLISHMENT.—There is hereby established the Consumer Financial Protection Council (hereinafter in this title referred to as the ''Council'') as an independent establishment of the executive branch, which shall consist of—

(1) the Chairman of the Board of Governors of the Federal Reserve System;

(2) the Comptroller of the Currency;

(3) the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;

(4) the Director of the Office of Thrift Supervision;

(5) the Administrator of the National Credit Union Administration;

(6) the Secretary of the Department of Housing and Urban Development;

(7) the Secretary of the Treasury;

(8) the Chairman of the Securities and Exchange Commission;

(9) the Chairman of the Commodities Futures Trading Commission;

(10) the Chairman of the Federal Trade Commission; and

(11) one individual selected by the State Advisory Committee established under section 4005.

(b) STAFFING.—The Secretary of the Treasury shall provide appropriate staffing for the Council.

SEC. 4003. CONSUMER FINANCIAL PROTECTION SUBCOMMITTEE.

(a) ESTABLISHMENT.—There is hereby established within the Council the Consumer Financial Protection Subcommittee (hereinafter in this title referred to as the ''CFPS''), which shall consist of the members of the Council.

(b) PURPOSE.—The purpose of the CFPS is to ensure that all providers of a financial product or service to consumers are subject to meaningful and uniform consumer protection requirements, and that functionally equivalent products are subject to equivalent consumer protection standards.

(c) CHAIRMANSHIP.—

(1) INITIAL CHAIRMAN.—The Chairman of the Federal Trade Commission shall serve as the Chairman of the CFPS for the 2-year period beginning on the date of the enactment of this title.

(2) SUBSEQUENT SELECTION.—After the 2-year period described under paragraph (1), the President shall appoint the Chairman of the CFPS from among the members of the CFPS. The term of the Chairmanship shall be 2 years.

(d) VOTING.—Decisions of the CFPS shall be made by a majority vote of the members of the CFPS.

(e) DUTIES.—The CFPS shall review existing consumer protection regulations and issue new or revised regulations where needed to prevent unfair or deceptive practices.

(f) PROCEDURES FOR PROPOSING AND ISSUING REGULATIONS.—

(1) PROPOSAL.—Any member of the CFPS may propose that the CFPS consider the need for the modification of an existing regulation or for the issuing of a new regulation with respect to a particular consumer financial product or service. After such proposal is made, the CFPS shall develop an analysis of the proposal and prepare a report that either—

(A) recommends that no action be taken; or

(B) recommends the modification of existing regulations or the issuing of new regulations.

(2) PUBLICATION.—With respect to a report prepared under paragraph (1)—

(A) if the CFPS recommends that no action be taken, the CFPS shall make a copy of the report publicly available; and

(B) if the CFPS recommends the modification of existing regulations or the issuing of new regulations, the CFPS shall publish such report in the Federal Register and solicit public comments on such recommendation, pursuant to the Administrative Procedure Act.

(3) MODIFICATION OR ACCEPTANCE.—With respect to each recommendation described under paragraph (2)(B) for the modification of existing regulations or the issuing of new regulations, after the CFPS has considered the public comments on such recommendation, the CFPS shall vote on whether such recommendations should be withdrawn, modified, or published as a final regulation.

(4) REGULATIONS ISSUED BY CFPS CONTROL.—Notwithstanding any other provision of law, to the extent that any other regulation conflicts with a regulation issued by the CFPS under this subsection, such other regulation shall have no force or effect to the extent of such conflict.

(5) PROPOSALS BY STATE ADVISORY COMMITTEE.—

(A) IN GENERAL.—Any proposal made under paragraph (1) by the member of the CFPS selected by the State Advisory Committee shall be accompanied by a certification from such member stating that more than half of the States support such proposal.

(B) METHOD OF DETERMINATION.—For purposes of this paragraph, the State Advisory Committee shall determine the method for determining if a State supports a proposal.

(6) REPORT ON APPROVAL OR OPPOSITION.—Each member of the CFPS shall issue an annual report to the Congress containing a detailed explanation, for each proposal made under paragraph (1), why such member supported or opposed such proposal.

(7) PROCEDURES TO BE APPLIED TO ALL RULEMAKINGS.—The procedures under this subsection shall be used by the CFPS when issuing any regulation under the authority of this title.

(g) CONSUMER FINANCIAL PRODUCTS OR SERVICES EXPRESSLY PERMITTED BY STATE OR FEDERAL LAW.—

(1) VOTING REQUIREMENTS.—Any votes taken by the CFPS to prevent the offering of any consumer financial product or service that is expressly permitted by State or Federal law shall only be agreed to by a two-thirds vote.

(2) RECOMMENDATIONS TO THE CONGRESS.—If the CFPS determines a need to prevent the offering of any consumer financial product or service expressly permitted by State or Federal law, the CFPS shall issue a report to the Congress containing such determination and including—

(A) a description of the specific financial product or service that the CFPS is recommending the Congress should prevent from being offered;

(B) an estimate of the amount of credit provided by and the number of consumers using any such financial product or service;

(C) a list of any States which have expressly permitted any such financial product or service;

(D) the identities of persons known by the CFPS to be offering any such financial product or service;

(E) an analysis of whether there are ample other alternative reasonably priced financial products or services available to meet consumers' credit needs, and a description of such alternative financial products or services; and

(F) the basis and reasoning on which the CFPS has based its recommendation.

(3) DEFINITION.—For purposes of this subsection, the term ''prevent the offering of any consumer financial product or service'' shall mean taking any action that could reasonably result in the direct or indirect prohibition of, or materially interfere with the ability of any person to offer, any consumer financial product or service.

SEC. 4004. FINANCIAL INSTITUTIONS EXAMINATION COUNCIL.

Section 1004(a) of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3303(a)) is amended by inserting after ''established'' the following: ''as a subcommittee within the Consumer Financial Protection Council''.

SEC. 4005. STATE ADVISORY COMMITTEE.

There is hereby established within the Council the State Advisory Committee,

which shall consist of one representative from each of the following:

(1) The Conference of State Bank Supervisors.

(2) The American Council of State Savings Supervisors.

(3) The National Association of State Credit Union Supervisors.

SEC. 4006. EQUALITY OF CONSUMER PROTECTION ENFORCEMENT RESPONSIBILITIES.

With respect to each consumer protection agency, the enforcement of the provisions of the consumer protection laws under such agency's jurisdiction shall be of equal importance to such agency as the enforcement of the provisions of other laws under such agency's jurisdiction.

SEC. 4007. DIRECTOR OF THE CONSUMER FINANCIAL PROTECTION DIVISION.

(a) ESTABLISHMENT.—There is hereby established within each consumer protection agency a position of Director of the Consumer Financial Protection Division.

(b) COMPENSATION.—With respect to a consumer protection agency, the Director of the Consumer Financial Protection Division shall be compensated in an amount no less than the amount of compensation provided to the head of other subdivisions of such agency of a comparable size.

(c) DIRECT REPORTING.—Each Director of the Consumer Financial Protection Division established under subsection (a) shall report directly to the head of the agency within which such Director is located.

(d) ANNUAL REPORT TO THE CONGRESS.—Each consumer protection agency shall issue an annual report to the Congress detailing the activities of the Director of the Consumer Financial Protection Division and how such activities advanced the agency's consumer protection functions.

SEC. 4008. PROHIBITING UNFAIR OR DECEPTIVE ACTS OR PRACTICES.

(a) IN GENERAL.—Each consumer protection agency may prevent a person from committing or engaging in an unfair or deceptive act or practice in connection with any transaction with a consumer for a consumer financial product or service under such agency's jurisdiction.

(b) RULEMAKING.—Each consumer protection agency may prescribe regulations identifying as unlawful, unfair, or deceptive acts or practices in connection with any transaction with a consumer for a consumer financial product or service under such agency's jurisdiction.

(c) REFERRAL TO CFPS.—With respect to each regulation issued pursuant to subsection (b), the consumer protection agency issuing such regulation shall propose such regulation to the CFPS under section 4003(f), unless the CFPS already has a substantially similar proposal under consideration.

(d) UNFAIRNESS.—

(1) IN GENERAL.—A consumer protection agency shall have no authority under this section to declare an act or practice in connection with a transaction with a consumer for a consumer financial product or service to be unlawful on the grounds that such act or practice is unfair unless such agency has a reasonable basis to conclude that the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers and such substantial injury is not outweighed by countervailing benefits to consumers or to competition.

(2) EXISTING PUBLISHED GUIDELINES AS FACTOR.—In determining whether an act or practice is unfair, a consumer protection agency shall consider established public policies and regulations, interpretations, guidance, and staff commentaries issued by the consumer protection agencies under the consumer protection laws they enforce.

(e) DEFINITIONS.—For purposes of this section, the terms ''unfair'' and ''deceptive'' shall have the meanings given such terms under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

SEC. 4009. ADOPTING OPERATIONAL STANDARDS TO DETER UNFAIR OR DECEPTIVE PRACTICES.

(a) AUTHORITY TO PRESCRIBE STANDARDS.—The consumer protection agencies shall prescribe standards applicable to covered persons to deter and detect unfair or deceptive acts or practices in the provision of consumer financial products or services under such agency's jurisdiction, including standards for—

(1) background checks for principals, officers, directors, or key personnel of the covered person;

(2) registration, licensing, or certification;

(3) bond or other appropriate financial requirements to provide reasonable assurance of the ability of the covered person to perform its obligations to consumers;

(4) creating and maintaining records of transactions or accounts; and

(5) procedures and operations of the covered person relating to the provision of, or maintenance of accounts for, consumer financial products or services.

(b) CFPS AUTHORITY TO ISSUE REGULATIONS.—The CFPS may issue regulations establishing minimum standards under this section for any class of covered persons.

(c) EXCEPTION FOR ENFORCEMENT OF GRAMM-LEACH-BLILEY PRIVACY LAWS AGAINST INSURERS.—Neither the consumer protection agencies nor the CFPS shall have authority to issue or enforce regulations with respect to authorities that are granted to State insurance regulators under section 505(a)(6) of the Gramm-Leach-Bliley Act.

SEC. 4010. PRESUMPTION OF ABILITY TO REPAY.

(a) PROHIBITION ON RESIDENTIAL MORTGAGE LOANS THAT WON'T REASONABLY BE REPAID.—

(1) IN GENERAL.—No creditor shall make a residential mortgage loan unless it has a reasonable basis for determining that the consumer can repay the loan.

(2) BASIS FOR DETERMINATION.—A determination under this subsection of a consumer's ability to repay a residential mortgage loan shall include consideration of the consumer's credit history, current income, expected income the consumer is reasonably assured of receiving, current obligations, debt-to-income ratio, employment status, and other financial resources other than the consumer's equity in the dwelling or real property that secures repayment of the loan.

(b) EXEMPTION FOR CERTAIN MODEL TERMS AND CONDITIONS.—Subsection (a) shall not apply to residential mortgage loans containing the model terms and conditions contained in regulations issued by the Council under subsection (c).

(c) PROCEDURE FOR ADOPTING MODEL TERMS AND CONDITIONS.—

(1) IN GENERAL.—Not later than 1 years after the date of the enactment of this title, the Council shall issue regulations containing model terms and conditions for residential mortgage loans, for purposes of subsection (b).

(2) VOTING.—The Council may only issue a regulation under paragraph (1)—

(A) by a majority vote of the Council's members; and

(B) in a vote where each member of the Council casts a vote.

(3) REVISION OF MODEL TERMS AND CONDITIONS.—The Council shall update regulations issued under this subsection from time to time as appropriate.

(4) RULEMAKING PROCEDURES.—In issuing any regulation under this subsection, the Council shall, to the extent practicable, follow the procedures set forth under section 4003(f) for the consideration of proposals by the CFPS.

(d) ENFORCEMENT.—The prohibition under subsection (a) shall be enforced by each member of the Council with jurisdiction over the provision of residential mortgage loans.

SEC. 4011. EXAMINATIONS BY CONSUMER PROTECTION AGENCIES.

(a) IN GENERAL.—Each consumer protection agency shall carry out regular examinations of covered persons regulated by such agency.

(b) SCOPE OF EXAMINATIONS.—Examinations carried out pursuant to subsection (a) shall be comparable to those examinations carried out by the Federal banking agencies of insured depository institutions.

SEC. 4012. CONSUMER RIGHTS TO ACCESS INFORMATION.

(a) IN GENERAL.—Subject to regulations prescribed by the consumer protection agencies, a covered person shall make available to a consumer, in an electronic form usable by the consumer, information in the control or possession of the covered person concerning the consumer financial product or service that the consumer obtained from such covered person including information relating to any transaction, series of transactions, or to the account, including charges and usage data.

(b) EXCEPTIONS.—A covered person shall not be required by this section to make available to the consumer—

(1) any confidential commercial information, including an algorithm used to derive credit scores or other risk scores or predictors;

(2) any information collected by the covered person for the purpose of preventing fraud or money laundering, or detecting, or making any report regarding other unlawful or potentially unlawful conduct;

(3) any information required to be kept confidential by any other law; or

(4) any information that the covered person cannot retrieve in the ordinary course of its business with respect to that information.

(c) NO DUTY TO MAINTAIN RECORDS.—No provision of this section shall be construed as imposing any duty on a covered person to maintain or keep any information about a consumer.

(d) STANDARDIZED FORMATS FOR DATA.—The consumer protection agencies, by regulation, shall prescribe standards applicable to covered persons to promote the development and use of standardized formats for information, including through the use of machine readable files, to be made available to consumers under this section.

SEC. 4013. PROHIBITED ACTS.

It shall be unlawful for any person to—

(1) advertise, market, offer, sell, enforce, or attempt to enforce, any term, agreement, change in terms, fee or charge in connection with a consumer financial product or service that is not in conformity with this title and applicable regulation prescribed or order issued by the consumer protection agencies, the CFPS, or the Council;

(2) fail or refuse to permit access to or copying of records, or fail or refuse to establish or maintain records, or fail or refuse to make reports or provide information to a consumer protection agency, the CFPS, or the Council, as required by this title, a consumer protection law or any regulation prescribed or order issued by a consumer protection agency, the CFPS, or the Council under this title or pursuant to any such authority; or

(3) knowingly or recklessly provide substantial assistance to another person in violation of the provisions of section 4008, or any regulation prescribed or order issued under such section, and any such person shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided.

SEC. 4014. STATE ATTORNEYS GENERAL RIGHT TO SUE.

No provision of this title shall be construed to limit the applicability or the effect of the decision of the Supreme Court in Cuomo v. Clearing House Assn., L.L.C., 557 U.S. _____ (2009).

SEC. 4015. ENFORCEMENT.

(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) CIVIL INVESTIGATIVE DEMAND AND DEMAND.—The terms ''civil investigative demand'' and ''demand'' mean any demand issued by a consumer protection agency.

(2) CONSUMER PROTECTION AGENCY.—The term ''consumer protection agency'' means—

(A) the appropriate Federal banking agency (as such term is defined in section 3(q) of the Federal Deposit Insurance Act), with respect to entities regulated by the appropriate Federal banking agencies;

(B) the National Credit Union Administration, with respect to a credit union;

(C) the Securities and Exchange Commission, with respect to an entity regulated by such Commission;

(D) the Commodity Futures Trading Commission, with respect to an entity regulated by such Commission; and

(E) the Federal Trade Commission, with respect to any entity not regulated by the appropriate Federal banking agencies, the National Credit Union Administration, the Securities and Exchange Commission, or the Commodity Futures Trading Commission.

(3) CONSUMER PROTECTION AGENCY INVESTIGATION.—The term ''consumer protection agency investigation'' means any inquiry conducted by a consumer protection agency investigator for the purpose of ascertaining whether any person is or has been engaged in any conduct that violates this title, any consumer protection law, or any regulation prescribed or order issued by the consumer protection agencies, the CFPS, or the Council under this title.

(4) CONSUMER PROTECTION AGENCY INVESTIGATOR.—The term ''consumer protection agency investigator'' means any attorney or investigator employed by a consumer protection agency who is charged with the duty of enforcing or carrying into effect any provisions of this title, any consumer protection law, or any regulation prescribed or order issued under this title or pursuant to any such authority by the consumer protection agency, the CFPS, or the Council.

(5) CUSTODIAN.—The term ''custodian'' means the custodian or any deputy custodian designated by a consumer protection agency.

(6) DOCUMENTARY MATERIAL.—The term ''documentary material'' includes the original or any copy of any book, record, report, memorandum, paper, communication, tabulation, chart, or other document.

(7) VIOLATION.—The term ''violation'' means any act or omission that, if proved, would constitute a violation of any provision of this title, any consumer protection law, or of any regulation prescribed or order issued by a consumer protection agency, the CFPS, of the Council under this title or pursuant to any such authority.

(b) INVESTIGATIONS AND ADMINISTRATIVE DISCOVERY.—

(1) SUBPOENAS.—

(A) IN GENERAL.—A consumer protection agency or a consumer protection agency investigator may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, documents, or other material in connection with hearings under this title.

(B) FAILURE TO OBEY.—In case of contumacy or refusal to obey a subpoena issued pursuant to this paragraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by a consumer protection agency or a consumer protection agency investigator and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents or other material, or both.

(C) CONTEMPT.—Any failure to obey an order of the court under this subsection may be punished by the court as a contempt thereof.

(2) DEMANDS.—

(A) IN GENERAL.—Whenever a consumer protection agency has reason to believe that any person may be in possession, custody, or control of any documentary material or tangible things, or may have any information, relevant to a violation, a consumer protection agency may, before the institution of any proceedings under this title or under any consumer protection law, issue in writing, and cause to be served upon such person, a civil investigative demand requiring such person to—

(i) produce such documentary material for inspection and copying or reproduction;

(ii) submit such tangible things;

(iii) file written reports or answers to questions;

(iv) give oral testimony concerning documentary material or other information; or

(v) furnish any combination of such material, answers, or testimony.

(B) REQUIREMENTS.—Each civil investigative demand shall state the nature of the conduct constituting the alleged violation which is under investigation and the provision of law applicable to such violation.

(C) PRODUCTION OF DOCUMENTS.—Each civil investigative demand for the production of documentary material shall—

(i) describe each class of documentary material to be produced under the demand with such definiteness and certainty as to permit such material to be fairly identified;

(ii) prescribe a return date or dates which will provide a reasonable period of time within which the material so demanded may be assembled and made available for inspection and copying or reproduction; and

(iii) identify the custodian to whom such material shall be made available.

(D) PRODUCTION OF THINGS.—Each civil investigative demand for the submission of tangible things shall—

(i) describe each class of tangible things to be submitted under the demand with such definiteness and certainty as to permit such things to be fairly identified;

(ii) prescribe a return date or dates which will provide a reasonable period of time within which the things so demanded may be assembled and submitted; and

(iii) identify the custodian to whom such things shall be submitted.

(E) DEMAND FOR WRITTEN REPORTS OR ANSWERS.—Each civil investigative demand for written reports or answers to questions shall—

(i) propound with definiteness and certainty the reports to be produced or the questions to be answered;

(ii) prescribe a date or dates at which time written reports or answers to questions shall be submitted; and

(iii) identify the custodian to whom such reports or answers shall be submitted.

(F) ORAL TESTIMONY.—Each civil investigative demand for the giving of oral testimony shall—

(i) prescribe a date, time, and place at which oral testimony shall be commenced; and

(ii) identify a consumer protection agency investigator who shall conduct the investigation and the custodian to whom the transcript of such investigation shall be submitted.

(G) SERVICE.—

(i) Any civil investigative demand may be served by any consumer protection agency investigator at any place within the territorial jurisdiction of any court of the United States.

(ii) Any such demand or any enforcement petition filed under this section may be served upon any person who is not found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign nation.

(iii) To the extent that the courts of the United States have authority to assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such district court would have if such person were personally within the jurisdiction of such district court.

(H) METHOD OF SERVICE.—Service of any civil investigative demand or any enforcement petition filed under this section may be made upon a person, including any legal entity, by—

(i) delivering a duly executed copy of such demand or petition to the individual or to any partner, executive officer, managing agent, or general agent of such person, or to any agent of such person authorized by appointment or by law to receive service of process on behalf of such person;

(ii) delivering a duly executed copy of such demand or petition to the principal office or place of business of the person to be served; or

(iii) depositing a duly executed copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at its principal office or place of business.

(I) PROOF OF SERVICE.—

(i) A verified return by the individual serving any civil investigative demand or any enforcement petition filed under this section setting forth the manner of such service shall be proof of such service.

(ii) In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such demand or enforcement petition.

(J) PRODUCTION OF DOCUMENTARY MATERIAL.—The production of documentary material in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person having knowledge of the facts and circumstances relating to such production, to the effect that all of the documentary material required by the demand and in the possession, custody, or control of the person to whom the demand is directed has been produced and made available to the custodian.

(K) SUBMISSION OF TANGIBLE THINGS.—The submission of tangible things in response to a civil investigative demand shall be made under a sworn certificate, in such form as the demand designates, by the person to whom the demand is directed or, if not a natural person, by any person having knowledge

of the facts and circumstances relating to such production, to the effect that all of the tangible things required by the demand and in the possession, custody, or control of the person to whom the demand is directed have been submitted to the custodian.

(L) SEPARATE ANSWERS.—Each reporting requirement or question in a civil investigative demand shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of an answer, and it shall be submitted under a sworn certificate, in such form as the demand designates, by the person, if a natural person, to whom the demand is directed or, if not a natural person, by any person responsible for answering each reporting requirement or question, to the effect that all information required by the demand and in the possession, custody, control, or knowledge of the person to whom the demand is directed has been submitted.

(M) TESTIMONY.—

(i) PROCEDURE.—

(I) OATH AND RECORDATION.—Any consumer protection agency investigator before whom oral testimony is to be taken shall put the witness on oath or affirmation and shall personally, or by any individual acting under his direction and in his presence, record the testimony of the witness.

(II) TRANSCRIPTIONS.—The testimony shall be taken stenographically and transcribed.

(III) COPY TO CUSTODIAN.—After the testimony is fully transcribed, the consumer protection agency investigator before whom the testimony is taken shall promptly transmit a copy of the transcript of the testimony to the custodian.

(ii) PARTIES PRESENT.—Any consumer protection agency investigator before whom oral testimony is to be taken shall exclude from the place where the testimony is to be taken all other persons except the person giving the testimony, his or her attorney, the officer before whom the testimony is to be taken, and any stenographer taking such testimony.

(iii) LOCATION.—The oral testimony of any person taken pursuant to a civil investigative demand shall be taken in the judicial district of the United States in which such person resides, is found, or transacts business, or in such other place as may be agreed upon by the consumer protection agency investigator before whom the oral testimony of such person is to be taken and such person.

(iv) ATTORNEY REPRESENTATION.—

(I) IN GENERAL.—Any person compelled to appear under a civil investigative demand for oral testimony pursuant to this section may be accompanied, represented, and advised by an attorney.

(II) CONFIDENTIAL ADVICE.—The attorney may advise the person summoned, in confidence, either upon the request of such person or upon the initiative of the attorney, with respect to any question asked of such person.

(III) OBJECTIONS.—The person summoned or the attorney may object on the record to any question, in whole or in part, and shall briefly state for the record the reason for the objection.

(IV) REFUSAL TO ANSWER.—An objection may properly be made, received, and entered upon the record when it is claimed that the person summoned is entitled to refuse to answer the question on grounds of any constitutional or other legal right or privilege, including the privilege against self-incrimination, but such person shall not otherwise object to or refuse to answer any question, and shall not otherwise interrupt the oral examination, directly or through such person's attorney.

(V) PETITION FOR ORDER.—If such person refuses to answer any question, a consumer protection agency may petition the district court of the United States pursuant to this section for an order compelling such person to answer such question.

(VI) BASIS FOR COMPELLING TESTIMONY.—If such person refuses to answer any question on grounds of the privilege against self-incrimination, the testimony of such person may be compelled in accordance with the provisions of section 6004 of title 18, United States Code.

(v) TRANSCRIPTS.—

(I) RIGHT TO EXAMINE.—After the testimony of any witness is fully transcribed, the consumer protection agency investigator shall afford the witness (who may be accompanied by an attorney) a reasonable opportunity to examine the transcript.

(II) READING THE TRANSCRIPT.—The transcript shall be read to or by the witness, unless such examination and reading are waived by the witness.

(III) REQUEST FOR CHANGES.—Any changes in form or substance which the witness desires to make shall be entered and identified upon the transcript by the consumer protection agency investigator with a statement of the reasons given by the witness for making such changes.

(IV) SIGNATURE.—The transcript shall be signed by the witness, unless the witness in writing waives the signing, is ill, cannot be found, or refuses to sign.

(V) CONSUMER PROTECTION AGENCY ACTION IN LIEU OF SIGNATURE.—If the transcript is not signed by the witness during the 30-day period following the date upon which the witness is first afforded a reasonable opportunity to examine it, the consumer protection agency investigator shall sign the transcript and state on the record the fact of the waiver, illness, absence of the witness, or the refusal to sign, together with any reasons given for the failure to sign.

(vi) CERTIFICATION BY INVESTIGATOR.—The consumer protection agency investigator shall certify on the transcript that the witness was duly sworn by the investigator and that the transcript is a true record of the testimony given by the witness, and the consumer protection agency investigator shall promptly deliver the transcript or send it by registered or certified mail to the custodian.

(vii) COPY OF TRANSCRIPT.—The consumer protection agency investigator shall furnish a copy of the transcript (upon payment of reasonable charges for the transcript) to the witness only, except that the consumer protection agency may for good cause limit such witness to inspection of the official transcript of his testimony.

(viii) WITNESS FEES.—Any witness appearing for the taking of oral testimony pursuant to a civil investigative demand shall be entitled to the same fees and mileage which are paid to witnesses in the district courts of the United States.

(3) CONFIDENTIAL TREATMENT OF DEMAND MATERIAL.—

(A) IN GENERAL.—Materials received as a result of a civil investigative demand shall be subject to requirements and procedures regarding confidentiality, in accordance with regulations established by the consumer protection agency.

(B) DISCLOSURE TO CONGRESS.—No regulation established by a consumer protection agency regarding the confidentiality of materials submitted to, or otherwise obtained by, the consumer protection agency shall be intended to prevent disclosure to either House of Congress or to an appropriate committee of the Congress, except that the consumer protection agency may prescribe regulations allowing prior notice to any party that owns or otherwise provided the material to the consumer protection agency and has designated such material as confidential.

(4) PETITION FOR ENFORCEMENT.—

(A) IN GENERAL.—Whenever any person fails to comply with any civil investigative demand duly served upon such person under this section, or whenever satisfactory copying or reproduction of material requested pursuant to the demand cannot be accomplished and such person refuses to surrender such material, the consumer protection agency, through such officers or attorneys as it may designate, may file, in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person, a petition for an order of such court for the enforcement of this section.

(B) SERVICE OF PROCESS.—All process of any court to which application may be made as provided in this subsection may be served in any judicial district.

(5) PETITION FOR ORDER MODIFYING OR SETTING ASIDE DEMAND.—

(A) IN GENERAL.—Not later than 20 days after the service of any civil investigative demand upon any person under subsection (b), or at any time before the return date specified in the demand, whichever period is shorter, or within such period exceeding 20 days after service or in excess of such return date as may be prescribed in writing, subsequent to service, by any consumer protection agency investigator named in the demand, such person may file with the consumer protection agency a petition for an order by the consumer protection agency modifying or setting aside the demand.

(B) COMPLIANCE DURING PENDENCY.—The time permitted for compliance with the demand in whole or in part, as deemed proper and ordered by the consumer protection agency, shall not run during the pendency of such petition at the consumer protection agency, except that such person shall comply with any portions of the demand not sought to be modified or set aside.

(C) SPECIFIC GROUNDS.—Such petition shall specify each ground upon which the petitioner relies in seeking such relief, and may be based upon any failure of the demand to comply with the provisions of this section, or upon any constitutional or other legal right or privilege of such person.

(6) CUSTODIAL CONTROL.—At any time during which any custodian is in custody or control of any documentary material, tangible things, reports, answers to questions, or transcripts of oral testimony given by any person in compliance with any civil investigative demand, such person may file, in the district court of the United States for the judicial district within which the office of such custodian is situated, and serve upon such custodian, a petition for an order of such court requiring the performance by such custodian of any duty imposed upon such custodian by this section or regulation prescribed by the consumer protection agency.

(7) JURISDICTION OF COURT.—

(A) IN GENERAL.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section.

(B) APPEAL.—Any final order so entered shall be subject to appeal pursuant to section 1291 of title 28, United States Code.

(c) HEARINGS AND ADJUDICATION PROCEEDINGS.—

(1) IN GENERAL.—A consumer protection agency may conduct hearings and adjudication proceedings with respect to any person in the manner prescribed by chapter 5 of title 5, United States Code in order to ensure or enforce compliance with—

(A) the provisions of this title, including any regulations prescribed by the consumer protection agency under this title; and

(B) any other Federal law that the consumer protection agency is authorized to enforce, including a consumer protection law, and any regulations or order prescribed thereunder, unless such Federal law specifically limits the consumer protection agency from conducting a hearing or adjudication proceeding and only to the extent of such limitation.

(2) SPECIAL RULES FOR CEASE-AND-DESIST PROCEEDINGS.—

(A) ISSUANCE.—

(i) NOTICE OF CHARGES.—If, in the opinion of a consumer protection agency, any covered person is engaging or has engaged in an activity that violates a law, regulation, or any condition imposed in writing on the person by the consumer protection agency, the consumer protection agency may issue and serve upon the person a notice of charges with respect to such violation.

(ii) CONTENTS OF NOTICE.—The notice shall contain a statement of the facts constituting any alleged violation and shall fix a time and place at which a hearing will be held to determine whether an order to cease-and-desist there from should issue against the person.

(iii) TIME OF HEARING.—A hearing under this subsection shall be fixed for a date not earlier than 30 days nor later than 60 days after service of such notice unless an earlier or a later date is set by the consumer protection agency at the request of any party so served.

(iv) NONAPPEARANCE DEEMED TO BE CONSENT TO ORDER.—Unless the party or parties so served shall appear at the hearing personally or by a duly authorized representative, they shall be deemed to have consented to the issuance of the cease-and-desist order.

(v) ISSUANCE OF ORDER.—In the event of such consent, or if upon the record made at any such hearing, the consumer protection agency shall find that any violation specified in the notice of charges has been established, the consumer protection agency may issue and serve upon the person an order to cease-and-desist from any such violation or practice.

(vi) INCLUDES REQUIREMENT FOR CORRECTIVE ACTION.—Such order may, by provisions which may be mandatory or otherwise, require the person to cease-and-desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation.

(B) EFFECTIVENESS OF ORDER.—A cease-and-desist order shall take effect at the end of the 30-day period beginning on the date of the service of such order upon the covered person concerned (except in the case of a cease-and-desist order issued upon consent, which shall take effect at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the consumer protection agency or a reviewing court.

(C) DECISION AND APPEAL.—

(i) PLACE OF AND PROCEDURES FOR HEARING.—Any hearing provided for in this subsection shall be held in the Federal judicial district or in the territory in which the residence or home office of the person is located unless the person consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code.

(ii) TIME LIMIT FOR DECISION.—After such hearing, and within 90 days after the consumer protection agency has notified the parties that the case has been submitted to it for final decision, the consumer protection agency shall—

(I) render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue; and

(II) serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection.

(iii) MODIFICATION OF ORDER GENERALLY.—Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in subparagraph (D), and thereafter until the record in the proceeding has been filed as so provided, the consumer protection agency may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order.

(iv) MODIFICATION OF ORDER AFTER FILING RECORD ON APPEAL.—Upon such filing of the record, the consumer protection agency may modify, terminate, or set aside any such order with permission of the court.

(D) APPEAL TO COURT OF APPEALS.—

(i) IN GENERAL.—Any party to any proceeding under this subsection may obtain a review of any order served pursuant to this subsection (other than an order issued with the consent of the person concerned) by the filing in the court of appeals of the United States for the circuit in which the principal office of the covered person is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the consumer protection agency be modified, terminated, or set aside.

(ii) TRANSMITTAL OF COPY TO THE CONSUMER PROTECTION AGENCY.—A copy of such petition shall be forthwith transmitted by the clerk of the court to the consumer protection agency, and thereupon the consumer protection agency shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(iii) JURISDICTION OF COURT.—Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as otherwise provided be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the consumer protection agency.

(iv) SCOPE OF REVIEW.—Review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code.

(v) FINALITY.—The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28, United States Code.

(E) NO STAY.—The commencement of proceedings for judicial review under subparagraph (D) shall not, unless specifically ordered by the court, operate as a stay of any order issued by the agency.

(3) SPECIAL RULES FOR TEMPORARY CEASE-AND-DESIST PROCEEDINGS.—

(A) ISSUANCE.—

(i) IN GENERAL.—Whenever the consumer protection agency determines that the violation specified in the notice of charges served upon a person pursuant to paragraph (2), or the continuation thereof, is likely to cause the person to be insolvent or otherwise prejudice the interests of consumers before the completion of the proceedings conducted pursuant to paragraph (2), the consumer protection agency may issue a temporary order requiring the covered person to cease-and-desist from any such violation or practice and to take affirmative action to prevent or remedy such insolvency or other condition pending completion of such proceedings.

(ii) OTHER REQUIREMENTS.—Any temporary order issued under this paragraph may include any requirement authorized under this section.

(iii) EFFECT DATE OF ORDER.—Any temporary order issued under this paragraph shall take effect upon service upon the person and, unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B), shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the consumer protection agency shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the person, until the effective date of such order.

(B) APPEAL.—Within 10 days after the person concerned has been served with a temporary cease-and-desist order, the person may apply to the United States district court for the judicial district in which the home office of the covered person is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the person under paragraph (2), and such court shall have jurisdiction to issue such injunction.

(C) INCOMPLETE OR INACCURATE RECORDS.—

(i) TEMPORARY ORDER.—If a notice of charges served under paragraph (2) specifies, on the basis of particular facts and circumstances, that a person's books and records are so incomplete or inaccurate that the consumer protection agency is unable to determine the financial condition of that person or the details or purpose of any transaction or transactions that may have a material effect on the financial condition of that person, the consumer protection agency may issue a temporary order requiring—

(I) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(II) affirmative action to restore such books or records to a complete and accurate state, until the completion of the proceedings under paragraph(2)(A).

(ii) EFFECTIVE PERIOD.—Any temporary order issued under clause (i)—

(I) shall take effect upon service; and

(II) unless set aside, limited, or suspended by a court in proceedings under subparagraph (B), shall remain in effect and enforceable until the earlier of—

(aa) the completion of the proceeding initiated under paragraph (2) in connection with the notice of charges; or

(bb) the date the consumer protection agency determines, by examination or otherwise, that the person's books and records are accurate and reflect the financial condition of the person.

(4) SPECIAL RULES FOR ENFORCEMENT OF ORDERS.—

(A) IN GENERAL.—The consumer protection agency may in its discretion apply to the United States district court within the jurisdiction of which the principal office of the covered person is located, for the enforcement of any effective and outstanding notice or order issued under this section, and such court shall have jurisdiction and power to order and require compliance herewith.

(B) EXCEPTION.—Except as otherwise provided in this subsection, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order or to review, modify, suspend, terminate, or set aside any such notice or order.

(5) REGULATIONS.—The consumer protection agencies shall prescribe regulations establishing such procedures as may be necessary to carry out this section.

(d) LITIGATION AUTHORITY.—

(1) IN GENERAL.—If any person violates a provision of this title, any consumer protection law or any regulation prescribed or order issued by a consumer protection agency, the CFPS, or the Council under this title or pursuant to any such authority, a consumer protection agency may commence a civil action against such person to impose a civil penalty or to seek all appropriate legal or equitable relief including a permanent or temporary injunction as permitted by law.

(2) REPRESENTATION.—A consumer protection agency may act in its own name and through its own attorneys in enforcing any provision of this title, regulations under this title, or any other law or regulation, or in any action, suit, or proceeding to which the consumer protection agency is a party.

(3) COMPROMISE OF ACTIONS.—A consumer protection agency may compromise or settle any action if such compromise is approved by the court.

(4) NOTICE TO THE ATTORNEY GENERAL.—When commencing a civil action under this title, any consumer protection law or any regulation thereunder, a consumer protection agency shall notify the Attorney General.

(5) FORUM.—Any civil action brought under this title may be brought in a United States district court or in any court of competent jurisdiction of a State in a district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to enjoin such person and to require compliance with this title, any consumer protection law or any regulation prescribed or order issued by a consumer protection agency, the CFPS, or the Council under this title or pursuant to any such authority.

(6) TIME FOR BRINGING ACTION.—

(A) IN GENERAL.—Except as otherwise permitted by law, no action may be brought under this title more than 3 years after the violation to which an action relates.

(B) LIMITATIONS UNDER OTHER FEDERAL LAWS.—

(i) For purposes of this subsection, an action arising under this title shall not include claims arising solely under consumer protection laws.

(ii) In any action arising solely under a consumer protection law, a consumer protection agency may commence, defend, or intervene in the action in accordance with the requirements of that law, as applicable.

(e) RELIEF AVAILABLE.—

(1) ADMINISTRATIVE PROCEEDINGS OR COURT ACTIONS.—

(A) JURISDICTION.—The court (or consumer protection agency, as the case may be) in an action or adjudication proceeding brought under this title or any consumer protection law shall have jurisdiction to grant any appropriate legal or equitable relief with respect to a violation of this title or any consumer protection law, including a violation of a regulation prescribed or order issued under this title or any consumer protection law.

(B) RELIEF.—Such relief may include—

(i) rescission or reformation of contracts;

(ii) refund of moneys or return of real property;

(iii) restitution;

(iv) compensation for unjust enrichment;

(v) payment of damages;

(vi) public notification regarding the violation, including the costs of notification;

(vii) limits on the activities or functions of the person; and

(viii) civil money penalties, as set forth more fully in paragraph (4).

(C) NO EXEMPLARY OR PUNITIVE DAMAGES.—Nothing in this paragraph shall be construed as authorizing the imposition of exemplary or punitive damages.

(2) RECOVERY OF COSTS.—In any action brought by a consumer protection agency to enforce any provision of this title, any consumer protection law, or any regulation prescribed or order issued by a consumer protection agency, the CFPS, or the Council under this title or pursuant to any such authority, a consumer protection agency may recover its costs in connection with prosecuting such action if the consumer protection agency is the prevailing party in the action.

(3) CIVIL MONEY PENALTY IN COURT AND ADMINISTRATIVE ACTIONS.—

(A) Any person that violates any provision of this title, any consumer protection law, or any regulation prescribed or order issued by a consumer protection agency, the CFPS, or the Council under this title shall forfeit and pay a civil penalty pursuant to this paragraph determined as follows:

(i) FIRST TIER.—For any violation of a final order or condition imposed in writing by a consumer protection agency, a civil penalty shall not exceed $5,000 for each day during which such violation continues.

(ii) SECOND TIER.—Notwithstanding clause (i), for any person that knowingly violates this title, any consumer protection law, or any regulation prescribed or order issued by a consumer protection agency, the CFPS, or the Council under this title, a civil penalty shall not exceed $1,000,000 for each day during which such violation continues.

(B) MITIGATING FACTORS.—In determining the amount of any penalty assessed under subparagraph (A), the consumer protection agency or the court shall take into account the appropriateness of the penalty with respect to—

(i) the size of financial resources and good faith of the person charged;

(ii) the gravity of the violation;

(iii) the severity of the risks to or losses of the consumer, which may take into account the number of products or services sold or provided;

(iv) the history of previous violations; and

(v) such other matters as justice may require.

(C) AUTHORITY TO MODIFY OR REMIT PENALTY.—The consumer protection agency may compromise, modify, or remit any penalty which may be assessed or had already been assessed under subparagraph (A). The amount of such penalty, when finally determined, shall be exclusive of any sums owed by the person to the United States in connection with the costs of the proceeding, and may be deducted from any sums owing by the United States to the person charged.

(D) NOTICE AND HEARING.—No civil penalty may be assessed with respect to a violation of this title, any consumer protection law, or any regulation prescribed or order issued by a consumer protection agency, the CFPS, or the Council, unless—

(i) the consumer protection agency gives notice and an opportunity for a hearing to the person accused of the violation; or

(ii) the appropriate court has ordered such assessment and entered judgment in favor of the consumer protection agency.

(f) REFERRALS FOR CRIMINAL PROCEEDINGS.—Whenever a consumer protection agency obtains evidence that any person, either domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, the consumer protection agency shall have the power to transmit such evidence to the Attorney General, who may institute criminal proceedings under appropriate law. Nothing in this section affects any other authority of the consumer protection agency to disclose information.

(g) EMPLOYEE PROTECTION.—

(1) IN GENERAL.—No person shall terminate or in any other way discriminate against, or cause to be terminated or discriminated against, any employee or any authorized representative of employees by reason of the fact that such employee or representative has provided information to a consumer protection agency, the CFPS, or the Council, filed, instituted or caused to be filed or instituted any proceeding under this title, any consumer protection law, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this title.

(2) CONSUMER PROTECTION AGENCY REVIEW OF TERMINATION.—

(A) APPLICATION FOR REVIEW.—Any employee or representative of employees who believes that he has been terminated or otherwise discriminated against by any person in violation of paragraph (1) may, within 45 days after such alleged violated occurs, apply to a consumer protection agency for review of such termination or alleged discrimination.

(B) COPY TO RESPONDENT.—A copy of the application shall be sent to the person who is alleged to have terminated or otherwise discriminated against an employee, and such person shall be the respondent.

(C) INVESTIGATION.—Upon receipt of such application, the consumer protection agency shall cause such investigation to be made as the consumer protection agency deems appropriate.

(D) HEARING.—Any investigation under this paragraph shall provide an opportunity for a public hearing at the request of any party to such review to enable the parties to present information relating to such alleged violation.

(E) NOTICE OF TIME AND PLACE FOR HEARING.—The parties shall be given written notice of the time and place of the hearing at least 5 days prior to the hearing.

(F) PROCEDURE.—Any hearing under this paragraph shall be of record and shall be subject to section 554 of title 5, United States Code.

(G) DETERMINATION.—

(i) IN GENERAL.—Upon receiving the report of such investigation, the consumer protection agency shall make findings of fact.

(ii) ISSUANCE OF DECISION.—If the consumer protection agency finds that there is sufficient evidence in the record to conclude that such a violation did occur, the consumer protection agency shall issue a decision, incorporating an order therein and the consumer protection agency's findings, requiring the party committing such violation to take such affirmative action to abate the violation as the consumer protection agency deems appropriate, including reinstating or rehiring the employee or representative of employees to the former position with compensation.

(iii) DENIAL OF APPLICATION.—If the consumer protection agency finds insufficient evidence to support the allegations made in the application, the consumer protection agency shall deny the application.

(H) JUDICIAL REVIEW.—An order issued by the consumer protection agency under this paragraph (2) shall be subject to judicial review in the same manner as orders and decisions are subject to judicial review under this title or any consumer protection law.

(3) COSTS AND EXPENSES.—Whenever an order is issued under this subsection to abate such violation, at the request of the applicant a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) determined by the consumer protection agency to have been reasonably incurred by the applicant for, or in connection with, the application and prosecution of such proceedings shall be assessed against the person committing such violation.

(4) EXCEPTION.—This subsection shall not apply to any employee who acting without

discretion from the employer of such employee (or the employer's agent) deliberately violates any requirement of this title or any consumer protection law.

(h) EXCLUSION FOR PERSONS REGULATED BY A STATE INSURANCE REGULATOR.—

(1) IN GENERAL.—No provision of this title shall be construed as altering, amending, or affecting the authority of any State insurance regulator to adopt rules, initiate enforcement proceedings, or take any other action with respect to a person regulated by any State insurance regulator. Except as provided in paragraphs (2) and (3), the Council and the CFPS shall have no authority to exercise any power to enforce this title with respect to a person regulated by any State insurance regulator.

(2) DESCRIPTION OF ACTIVITIES.—Paragraph (1) shall not apply to any person described in such paragraph to the extent such person is engaged in any financial activity described in any subparagraph of section 4018(15) or is otherwise subject to any of the enumerated consumer laws or the authorities transferred under section 4018(6).

(3) PRESERVATION OF CERTAIN AUTHORITIES.—Nothing in this title shall be construed as limiting the authority of the Council or the CFPS from exercising powers under this Act with respect to a person, other than a person regulated by a State insurance regulator, who provides a product or service for or on behalf of a person regulated by a State insurance regulator in connection with a financial activity.

SEC. 4016. COLLECTION OF DEPOSIT ACCOUNT DATA.

(a) PURPOSE.—The purpose of this section is to promote awareness and understanding of the access of individuals and communities to financial services, and to identify business and community development needs and opportunities.

(b) IN GENERAL.—

(1) RECORDS REQUIRED.—For each branch, automated teller machine at which deposits are accepted, and other deposit taking service facility with respect to any financial institution, the financial institution shall maintain records of the number and dollar amounts of deposit accounts of customers.

(2) GEO-CODED ADDRESSES OF DEPOSITORS.—The customers' addresses maintained pursuant to paragraph (1) shall be geo-coded so that data shall be collected regarding the census tracts of the residence or business location of the customers.

(3) IDENTIFICATION OF DEPOSITOR TYPE.—In maintaining records on any deposit account under this section, the financial institution shall also record whether the deposit account is for a residential or commercial customer.

(4) PUBLIC AVAILABILITY.—

(A) IN GENERAL.—The following information shall be publicly available on an annual basis—

(i) the address and census tracts of each branch, automated teller machine at which deposits are accepted, and other deposit taking service facility with respect to any financial institution;

(ii) the type of deposit account including whether the account was a checking or savings account; and

(iii) data on the number and dollar amounts of the accounts, presented by census tract location of the residential and commercial customers.

(B) PROTECTION OF IDENTITY.—In the publicly available data, any personally identifiable data element shall be removed so as to protect the identities of the commercial and residential customers.

(c) AVAILABILITY OF INFORMATION.—

(1) SUBMISSION TO AGENCIES.—The data required to be compiled and maintained under this section by any financial institution shall be submitted annually to the a Federal banking agency, in accordance with rules prescribed by the Federal banking agencies.

(2) AVAILABILITY OF INFORMATION.—Information compiled and maintained under this section shall be retained for not less than 3 years after the date of preparation and shall be made available to the public, upon request, in the form required under rules prescribed by the Federal banking agencies.

(d) FEDERAL BANKING AGENCY USE.—The Federal banking agencies—

(1) shall assess the distribution of residential and commercial accounts at such financial institution across income and minority level of census tracts; and

(2) may use the data for any other purpose as permitted by law.

(e) REGULATIONS AND GUIDANCE.—

(1) IN GENERAL.—The Federal banking agencies shall prescribe such regulations and issue guidance as may be necessary to carry out, enforce, and compile data pursuant to this section.

(2) DATA COMPILATION REGULATIONS.—The Federal banking agencies shall prescribe regulations regarding the provision of data compiled under this section to such agencies to carry out the purposes of this section and shall issue guidance to financial institutions regarding measures to facilitate compliance with the this section and the requirements of regulations prescribed under this section.

(f) DEFINITIONS.—For purposes of this section, and notwithstanding section 4018, the following definitions shall apply:

(1) CREDIT UNION.—The term ''credit union'' means a Federal credit union or a State-chartered credit union (as such terms are defined in section 101 of the Federal Credit Union Act).

(2) DEPOSIT ACCOUNT.—The term ''deposit account'' includes any checking account, savings account, credit union share account, and other type of account as defined by the consumer protection agencies.

(3) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' means the Board of Governors of the Federal Reserve System, the head of the agency responsible for chartering and regulating national banks, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration; and the term ''Federal banking agencies'' means all of those agencies.

(4) FINANCIAL INSTITUTION.—The term ''financial institution''—

(A) has the meaning given to the term ''insured depository institution'' in section 3(c)(2) of the Federal Deposit Insurance Act; and

(B) includes any credit union.

SEC. 4017. CONFIDENTIALITY.

The Council, the Financial Institutions Examination Council, the CFPS, and the consumer protection agencies shall each issue regulations regarding the confidential treatment of information obtained from persons in connection with the exercise of such entity's authorities under this title. Such regulations shall, to the extent practicable, mirror the provisions provided for the confidential treatment of financial records under the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401).

SEC. 4018. DEFINITIONS.

For purposes of this title:

(1) AFFILIATE.—The term ''affiliate'' means any person that controls, is controlled by, or is under common control with another person.

(2) BOARD OF GOVERNORS.—The term ''Board of Governors'' means the Board of Governors of the Federal Reserve System.

(3) CFPS.—The term ''CFPS'' means the Consumer Financial Protection Subcommittee established under section 4003.

(4) CONSUMER.—The term ''consumer'' means an individual or an agent, trustee, or representative acting on behalf of an individual.

(5) CONSUMER FINANCIAL PRODUCT OR SERVICE.—The term ''consumer financial product or service'' means any financial product or service to be used by a consumer primarily for personal, family, or household purposes.

(6) CONSUMER PROTECTION LAWS.—The term ''consumer protection laws'' means each of the following:

(A) The Alternative Mortgage Transaction Parity Act (12 U.S.C. 3801 et seq.).

(B) The Electronic Funds Transfer Act (15 U.S.C. 1693 et seq.)

(C) The Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.).

(D) The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), except with respect to sections 615(e), 624, and 628.

(E) The Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.).

(F) Subsections (c), (d), (e), and (f) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t).

(G) Sections 502, 503, 504, 505, 506, 507, 508, and 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802 et seq.).

(H) The Home Mortgage Disclosure Act (12 U.S.C. 2801 et seq.).

(I) The Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.).

(J) The Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. 5101 et seq.).

(K) The Truth in Lending Act (15 U.S.C. 1601 et seq.).

(L) The Truth in Savings Act (12 U.S.C. 4301 et seq.).

(7) CONSUMER PROTECTION AGENCY.—Except as provided in section 4015, the term ''consumer protection agency'' means—

(A) the Federal Reserve System;

(B) the Office of the Comptroller of the Currency;

(C) the Office of Thrift Supervision;

(D) the Federal Deposit Insurance Corporation;

(E) the Federal Trade Commission;

(F) the National Credit Union Administration;

(G) the Department of the Treasury;

(H) the Department of Housing and Urban Development;

(I) the Securities and Exchange Commission; and

(J) the Commodity Futures Trading Commission.

(8) COUNCIL.—The term ''council'' means the Consumer Financial Protection Council established under section 2.

(9) COVERED PERSON.—

(A) IN GENERAL.—The term ''covered person'' means—

(i) any person who engages directly or indirectly in a financial activity, in connection with the provision of a consumer financial product or service; or

(ii) any person who, in connection with the provision of a consumer financial product or service, provides a material service to, or processes a transaction on behalf of, a person described in subparagraph (A).

(B) EXCEPTION.—The term ''covered person'' does not include a person regulated by a State insurance regulator.

(10) CREDIT.—The term ''credit'' means the right granted by a person to a consumer to defer payment of a debt, incur debt and defer its payment, or purchase property or services and defer payment for such purchase.

(11) CREDIT UNION.—The term ''credit union'' means a Federal credit union, State credit union, or State-chartered credit union

as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752).

(12) DEPOSIT.—The term ''deposit''—

(A) has the same meaning as in section 3(l) of the Federal Deposit Insurance Act; and

(B) includes a share in a member account (as defined in section 101(5) of the Federal Credit Union Act) at a credit union.

(13) DEPOSIT-TAKING ACTIVITY.—The term ''deposit-taking activity'' means—

(A) the acceptance of deposits, the provision of other services related to the acceptance of deposits, or the maintenance of deposit accounts;

(B) the acceptance of money, the provision of other services related to the acceptance of money, or the maintenance of members' share accounts by a credit union; or

(C) the receipt of money or its equivalent, as a consumer protection agency may determine by regulation or order, received or held by the covered person (or an agent for the person) for the purpose of facilitating a payment or transferring funds or value of funds by a consumer to a third party.

For the purposes of this title, the consumer protection agencies may determine that the term ''deposit-taking activity'' includes the receipt of money or its equivalent in connection with the sale or issuance of any payment instrument or stored value product or service.

(14) FEDERAL BANKING AGENCY.—The term ''Federal banking agency'' means the Board of Governors, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, or the National Credit Union Administration and the term ''Federal banking agencies'' means all of those agencies.

(15) FINANCIAL ACTIVITY.—The term ''financial activity'' means any of the following activities:

(A) Deposit-taking activities.

(B) Extending credit and servicing loans, including—

(i) acquiring, brokering, or servicing loans or other extensions of credit;

(ii) engaging in any other activity usual in connection with extending credit or servicing loans, including performing appraisals of real estate and personal property and selling or servicing credit insurance or mortgage insurance.

(C) Check-guaranty services, including—

(i) authorizing a subscribing merchant to accept personal checks tendered by the merchant's customers in payment for goods and services; and

(ii) purchasing from a subscribing merchant validly authorized checks that are subsequently dishonored.

(D) Collecting, analyzing, maintaining, and providing consumer report information or other account information by covered persons, including information relating to the credit history of consumers and providing the information to a credit grantor who is considering a consumer application for credit or who has extended credit to the borrower.

(E) Collection of debt related to any consumer financial product or service.

(F) Providing real estate settlement services, including providing title insurance.

(G) Leasing personal or real property or acting as agent, broker, or adviser in leasing such property if—

(i) the lease is on a non-operating basis;

(ii) the initial term of the lease is at least 90 days; and

(iii) in the case of leases involving real property, at the inception of the initial lease, the transaction is intended to result in ownership of the leased property to be transferred to the lessee, subject to standards prescribed by the consumer protection agencies.

(H) Acting as an investment adviser to any person (not subject to regulation by or required to register with the Commodity Futures Trading Commission or the Securities and Exchange Commission).

(I) Acting as financial adviser to any person, including—

(i) providing financial and other related advisory services;

(ii) providing educational courses, and instructional materials to consumers on individual financial management matters; or

(iii) providing credit counseling, tax-planning or tax-preparation services to any person.

(J) Financial data processing, including providing data processing and data transmission services, facilities (including data processing and data transmission hardware, software, documentation, or operating personnel), databases, advice, and access to such services, facilities, or databases by any technological means, if—

(i) the data to be processed or furnished are financial, banking, or economic; and

(ii) the hardware provided in connection therewith is offered only in conjunction with software designed and marketed for the processing and transmission of financial, banking, or economic data, and where the general purpose hardware does not constitute more than 30 percent of the cost of any packaged offering.

(K) Money transmitting.

(L) Sale or issuance of stored value.

(M) Acting as a money services business.

(N) Acting as a custodian of money or any financial instrument.

(O) Any other activity that the consumer protection agencies define, by regulation, as a financial activity for the purposes of this title.

(P) Except that the term ''financial activity'' shall not include the business of insurance.

(16) FINANCIAL PRODUCT OR SERVICE.—The term ''financial product or service'' means any product or service that, directly or indirectly, results from or is related to engaging in 1 or more financial activities.

(17) FOREIGN EXCHANGE.—The term ''foreign exchange'' means the exchange, for compensation, of currency of the United States or of a foreign government for currency of another government.

(18) INSURED DEPOSITORY INSTITUTION.—The term ''insured depository institution'' has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(19) MONEY SERVICES BUSINESS.—The term ''money services business'' means a covered person that—

(A) receives currency, monetary value, or payment instruments for the purpose of exchanging or transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services, or other businesses that facilitate third-party transfers within the United States or to or from the United States; or

(B) issues payment instruments or stored value.

(20) MONEY TRANSMITTING.—The term ''money transmitting'' means the receipt by a covered person of currency, monetary value, or payment instruments for the purpose of transmitting the same to any third-party by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services.

(21) PAYMENT INSTRUMENT.—The term ''payment instrument'' means a check, draft, warrant, money order, traveler's check, electronic instrument, or other instrument, payment of money, or monetary value (other than currency).

(22) PERSON.—The term ''person'' means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

(23) PERSON REGULATED BY A STATE INSURANCE REGULATOR.—The term ''person regulated by a State insurance regulator'' means any person who is—

(A) engaged in the business of insurance; and

(B) subject to regulation by any State insurance regulator, but only to the extent that such person acts in such capacity.

(24) PERSON REGULATED BY THE COMMODITY FUTURES TRADING COMMISSION.—The term ''person regulated by the Commodity Futures Trading Commission'' means any futures commission merchant, commodity trading adviser, commodity pool operator, or introducing broker that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act, but only to the extent that the person acts in such capacity.

(25) PERSON REGULATED BY THE SECURITIES AND EXCHANGE COMMISSION.—The term ''person regulated by the Securities and Exchange Commission'' means—

(A) a broker or dealer that is required to be registered under the Securities Exchange Act of 1934;

(B) an investment adviser that is required to be registered under the Investment Advisers Act of 1940; or

(C) an investment company that is required to be registered under the Investment Company Act of 1940—

but only to the extent that the person acts in a registered capacity.

(26) PROVISION OF A CONSUMER FINANCIAL PRODUCT OR SERVICE.—The term ''provision of (or providing) a consumer financial product or service'' means the advertisement, marketing, solicitation, sale, disclosure, delivery, or account maintenance or servicing of a consumer financial product or service.

(27) RESIDENTIAL MORTGAGE LOAN.—The term ''residential mortgage loan'' shall have the meaning given such term in section 1503(8) of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

(28) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury.

(29) STATE.—The term ''State'' means any State, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Commonwealth of the Northern Mariana Islands, Guam, American Samoa, or the United States Virgin Islands.

(30) STORED VALUE.—The term ''stored value'' means funds or monetary value represented in any electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in such a way as to be retrievable and transferred electronically, and includes a prepaid debit card or product, or any other similar product, regardless of whether the amount of the funds or monetary value may be increased or reloaded.

SEC. 4019. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out this title.

The Acting CHAIR. Pursuant to House Resolution 964, the gentleman from Idaho (Mr. MINNICK) and a Member opposed each will control 20 minutes.

The Chair recognizes the gentleman from Idaho.

Mr. MINNICK. Madam Chair, we all support the goal of stronger, more uniform consumer protection regulation, but you don't achieve that by splitting

the responsibility between two regulators, in many cases thousands of miles apart, each with half the responsibility. And you compound that mistake by creating exemptions to the new regulation which create gaps and inconsistency.

Every regulation has some impact on both the solvency of a financial institution and on its customers. To split the responsibility between two inherently feuding regulators will lead to conflict, inaction, failure, and frustration.

My amendment is much superior. It creates a strong mandate for consumer protection in all of the existing regulators. Every regulator must have a division in charge of consumer protection reporting to a person with coequal responsibility for safety and soundness. The regulations themselves will be set by all of the major regulators, a council including regulators from the Secretary of the Treasury to the Federal Reserve to State Attorneys General. The staff for this council will be in the Treasury, and it will have rulemaking authority, but the existing regulators will have the responsibility for administration and enforcement.

Before I yield, I would like to thank the gentleman from Illinois, Congressman SCHOCK, and his legislative director, Mark Roman, for their leadership in forging a bipartisan coalition that yields this commonsense solution to this increasingly important problem.

Madam Chair, I yield 2 minutes to the gentleman from Oklahoma (Mr. BOREN).

Mr. BOREN. I thank the gentleman from Idaho for yielding.

I rise today in support of the Minnick-Schock-Boren-Bright-Childers-Shuler amendment.

Madam Chair, most everyone in this body agrees that following a period in American history where the Dow Jones Industrial Average lost almost 60 percent of its value, three of America's five major investment banks went broke, and the U.S. saw the largest number of commercial bank failures in four generations that the need to reform the way America's banking and financial regulatory system works is important. The question, though, is: Just how many new government agencies are necessary to accomplish this task? If we create a new Federal agency to regulate consumer credit, will it improve the current regulatory framework or will it end up costing American jobs? I think we need to be cautious in our approach, so today I rise in an effort to streamline this piece of legislation.

The amendment currently before this House will do a few simple things:

First, it will change the framework of the legislation by locating a newly created Consumer Financial Protection Council within the Department of the Treasury rather than creating an entirely new Federal agency to oversee the financial system.

Second, it will amend the legislation to take the power of regulating trillions of dollars of financial transactions out of the hands of one politically appointed administrator and instead create a Consumer Financial Protection Council charged with promoting consumer protection for users of financial products and services. By consolidating the expansion of government created by this regulatory bill, we can properly get the financial and banking system back on its feet without creating another new Federal agency designed to solve America's problems.

In the interest of good government, this legislation must be focused and directed at what caused the problem and not about settling old scores over business practices.

I urge my colleagues to support this bipartisan amendment.

Mr. FRANK of Massachusetts. Madam Chair, I rise to claim the time in opposition.

The Acting CHAIR. The gentleman from Massachusetts is recognized for 10 minutes.

Mr. FRANK of Massachusetts. I now yield 2 minutes to one of the most thoughtful members of the Financial Services Committee, whom we will greatly miss when he retires, the gentleman from Kansas (Mr. MOORE).

Mr. MOORE of Kansas. Madam Chair, I rise today to oppose the amendment offered by my colleague, Mr. MINNICK. I know my friend and colleague offers this alternative to the Consumer Financial Protection Agency in the spirit of wanting to do all we can to better protect consumers. I certainly share that view, but I don't support this proposed Consumer Financial Protection Council as the best way to accomplish that objective.

This amendment effectively eliminates 4 days of thoughtful markup for CFPA and nearly 50 amendments offered by Republicans and Democrats to improve the bill. I am concerned the amendment before us may be unconstitutional, empowering a three-member State panel to decide how States will take a position that affects their consumer protections. This amendment creates a bureaucratic nightmare. In committee, we worked to focus CFPA on the bad actors that created the financial crisis, not the responsible community banks and credit unions that were lending responsibly and doing what they were asked.

The exceptions for merchants and nonfinancial institutions makes sense as well. CFPA, as currently drafted, will help level the playing field for all community banks and credit unions. The new Consumer Protection Agency will instead be focused on the big banks and nonbanks, like mortgage brokers, that evaded strong supervision and gave us the subprime mortgage crisis that led to the broader financial crisis.

It's time to put an end to those greedy enough to lie, cheat, and steal to the detriment of their competitors, their customers, and our economy. Like our parents and grandparents who gave us Federal Deposit Insurance following the Great Depression, now is the time to give our children and grandchildren strong consumer protections and create the CFPA.

I urge my colleagues to vote ''no'' on the Minnick amendment and vote ''yes'' on the underlying bill.

Mr. MINNICK. May I inquire as to how much time I have remaining?

The Acting CHAIR. The gentleman from Idaho has 6 minutes remaining.

Mr. MINNICK. I yield 2 minutes to the gentleman from Illinois (Mr. SCHOCK).

Mr. SCHOCK. Madam Chair, first, I wish to thank the thoughtful gentleman from Idaho for his work on this important amendment. Clearly, the fact that we are debating this amendment towards the end of this piece of legislation speaks to the support for it, and I truly hope that a majority of our colleagues join together in supporting this amendment.

A couple of thoughts. Last week, the President hosted a job summit here. We go back home every weekend and the prevailing concern on the minds of our voters and our constituents is jobs. They're concerned about double-digit employment, they're upset with the greed and the lack of oversight that has been provided. And so, rightfully so, this body has tried to rein in some of that lack of regulation and tried to put forward a thoughtful program.

I know that the chairman of this committee is doing what he believes is best. But the fact of the matter is we need to look to those who are hurting. We need to look to those who are the job creators in this economy and ask: How will this affect them in their effort to employ people? Well, the fact of the matter is this is going to hurt our economy. This is going to lead to fewer jobs.

The goal of this CFPA is to lead to improvement in the marketplace for the American people. However, consolidating the power into one bureaucratic appointee, creating a $1 billion dollar agency, adding to our national debt, increasing taxes, restricting lending, and costing small businesses to shed millions of jobs hardly justifies itself.

This agency would make it more difficult for lenders to offer services and products that are important to small businesses. At a time when the economy is still struggling to recover, the last thing Congress ought to consider is an additional layer of regulation that will discourage new job creation.

The University of Chicago just this week released a study that they suggest the CFPA, as it stands, would increase consumer interest rates by more than 1.6 percentage points, consumer borrowing would be reduced by at least 2.1 percent, and net new job creation would fall 4 percent.

Mr. FRANK of Massachusetts. Madam Chair, I now recognize a strong advocate of a responsible policy towards the business community, the

gentlewoman from Illinois (Ms. BEAN) for 2 minutes.

Ms. BEAN. Madam Chair, I rise in opposition to the amendment and in support of the underlying bill.

While I am opposed to the gentleman from Idaho's amendment, I want to commend him on his leadership on comprehensive financial regulatory reform. We have worked closely on many issues in committee, and I appreciate the expertise he brings to these complicated issues before us.

Reforming our financial system is vitally important to creating a functional, sustainable financial system that American families and businesses can count on. We must not fail to enact adequate safeguards so that the mistakes of the past do not reoccur. Topping our to-do list should be the enactment of strong consumer financial protections that will keep our constituents safe as they rehabilitate their trust in our ability to effectively monitor America's financial health.

In order to accomplish this goal, we need an independent agency whose sole purpose is to protect and empower consumers to make informed financial decisions. The new CFPA, or Consumer Financial Protection Agency, would go a long way towards that end, restoring vital protections that were absent and duly needed during the buildup to America's recent financial fallout.

Since CFPA was introduced in July, the committee has made significant improvements to this bill. One of the initial concerns we heard was that companies who do not engage in consumer financial business would be regulated by the CFPA. We fixed that. Merchants, retailers, doctors, Realtors, and others—some suggested the butcher, the baker, the candlestick maker—let's be clear, they're exempt from CFPA as was intended and as they should be.

We address concerns we heard from banks and credit unions. Small and mid-size banks and credit unions under $10 billion in assets will not be subject to direct CFPA examination. Instead, there is a requirement now for coordination with the CFPA and the prudential regulator for those who are subject to direct CFPA examination.

After the manager's agreement reached this week, the ability of national banks and Federal savings associations to operate under a uniform national standard of rules, where appropriate, is preserved. But functional regulators failed to prioritize consumer protections and protect our constituents.

The Acting CHAIR. The gentlewoman's time has expired.

Mr. FRANK of Massachusetts. I yield the gentlewoman an additional 30 seconds.

Ms. BEAN. The CFPA will create a centralized and independent framework, reducing inefficiencies and bureaucracy across multiple agencies. They will have the expertise, resources, and mission to update consumer financial protection laws and protect our constituents from abusive and unfair financial products and services. Mr. MINNICK's amendment takes a different approach. What our consumers need is best-in-class protections for investors, and Americans deserve no less.

I urge my colleagues to oppose this amendment and support this historic underlying legislation and the CFPA it creates.

□ 1145

Mr. MINNICK. I yield 1½ minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. I thank the gentleman from Idaho for yielding.

Madam Chair, I rise in very strong support of this bipartisan amendment to create a Consumer Financial Protection Council which, of course, I am pleased to cosponsor. This amendment strikes the right balance in promoting strong consumer protections while ensuring the safety and soundness of our Nation's financial system.

I am convinced that the current language in the bill threatens to expand the reach of the Federal Government, to limit innovation, to restrict choices of financial products, and to interfere with day-to-day activities of small business. Utilizing a council of existing regulators is a cost-effective and responsible approach to achieving the same goals as intended by the Consumer Financial Protection Agency.

Our amendment establishes a council of existing regulators, which we know as the Treasury, Fed, OCC, FDIC, et cetera, instead of an entirely new agency and bureaucracy with all of the costs and attendant bureaucracy that would be involved with that. Utilizing a council balances power instead of using a single politically appointed administrator.

I would hope that everybody in the Chamber would support this change by the gentleman from Idaho. I think the underlying legislation has some problems. There are some cost issues, and there are probably some job issues and other things we have to worry about, but I think this particular change which is in this amendment is key to progressing in a way that would protect consumers but that would make sure that we are not distracting from the world of business in terms of commerce and banking in the United States of America.

Mr. FRANK of Massachusetts. I yield myself 4½ minutes.

Madam Chair, the author of the amendment, I thought, began—or it was one of the speakers. Maybe it was the gentleman from Oklahoma who said we don't need a new agency. Well, he apparently didn't get too far into the bill.

On lines 7 through 10 of page 1, There is hereby established the Consumer Financial Protection Council as an independent establishment of the executive branch.

So it creates a new agency—a monstrous one. It is a 12-headed council which will have its own staff assigned under this amendment by Treasury. Then within each of the 12 agencies, a new position is created—a director of consumer affairs. So you will have 12 new positions staffed by the Treasury, with no limitations on how that's done, and this new council. It is also unwieldy.

One of the responsibilities of the consumer agency will be to issue rules to prevent the kind of abuse of mortgages that had such a contributing role to our crisis. This bill says, yes, there will be such rules. They will be adopted by the 12-member council. They will vote on those. The chairman of the Commodities Future Trading Commission will have a vote on setting mortgage rates. The chairman of the Securities and Exchange Commission will help set mortgage rates. Other agencies without any particular involvement there will help set mortgage rates.

Now, the 12 agencies that make up this bureaucratic version of the Christmas song will include the agency that has more responsibility for consumer regulation today than any other—the Federal Reserve system. Those who have said, We don't like what the Federal Reserve does, should understand that the largest single loser of authority, by far, in the bill that the committee has brought forward is the Federal Reserve. The Federal Reserve has been the primary consumer regulator under this bill. It still will be under this amendment. The Federal Reserve will retain all of its powers because you have the council, but you also will have much of this done by the independent regulator.

So, if you think the Federal Reserve has done a good job as a consumer regulator and if you don't want to diminish its powers, then you ought to vote for this bill.

Our bill also doesn't just deal with the Federal powers. Frankly, we were respectful of the role of the community banks, which you have not heard from in large opposition over this. In fact, the independent community banks, until we get to bankruptcy, are going to be supportive of this bill. I understand they have a problem with that.

Much of the problem we have today is with the nonbanks—with the mortgages issued outside of banks, with the payday lenders, with the check cashers, with the people who do remittances. Many of them are honorable, but it's a largely unregulated operation. We give specific authority to regulate. What this says is the status quo is fine with regard to that. Arguably, the FTC has some jurisdiction over it. It hasn't been exercised very well.

So, if you want to do something about payday lenders and check cashers and remittances, then you'll want to vote for the committee version and not for this 12-member amendment. Maybe some of the new consumer directors in each of the 12 agencies will work this out, but you'll have

to wait for this 12-member body to vote on these things.

I do want to address one particular issue, which is: Well, what about safety and soundness? The notion that adequate consumer protection somehow detracts from safety and soundness is at the heart of some of our disagreement. In effect, what they are saying is, you know, we're going to have to water down consumer protection. If you get somebody who takes it seriously, it might impinge on safety and soundness. In fact, it has been the absence of consumer protection that has caused safety and soundness problems.

It was the refusal of the Federal Reserve, whose authority is preserved in the amendment of the gentleman from Idaho—they were given authority by this Congress in 1994 to regulate mortgages with the Homeowners Equity Protection Act. They flatly refused to use it. Because they would not do consumer protection, safety and soundness suffered. It didn't thrive.

There are other examples. The failure to adequately protect people in the credit card area contributes to problems. It does not diminish them. So the argument is very, very clear.

Now, it is true, by the way, that the Federal Reserve began to do some consumer protection recently, which was only after we started talking about this bill. This is explicitly what is in the bill. Implicitly what they are saying is: Keep consumer protection subordinated to bank regulation, and you will perpetuate the current problem.

Mr. MINNICK. Madam Chair, how much time do I have remaining?

The Acting CHAIR. The gentleman has 2½ minutes remaining.

Mr. MINNICK. I yield 30 seconds to the gentleman from California (Mr. CAMPBELL).

Mr. CAMPBELL. Madam Chair, we need to change some things so we don't face financial collapse. We can change those things without creating an entirely new agency—spending billions of new dollars, hiring thousands of new bureaucrats, housing them in a new building, and creating a conflict between the safety and soundness of banks and consumer protection.

The underlying bill creates all of those problems. This amendment accomplishes consumer protection without all of that. Support this amendment.

Mr. FRANK of Massachusetts. I have one remaining speaker, and since I have the right to close, I will reserve the balance of my time.

Mr. MINNICK. I yield 30 seconds to the gentleman from New Jersey (Mr. LANCE).

Mr. LANCE. Madam Chair, the current regulatory structure is not lacking authority. The Federal Reserve and the other banking agencies had all of the powers needed to address problems in consumer protection. What was lacking was coordination, improved disclosure, and an ability to fill the gaps in the system.

This amendment solves those deficiencies without installing a new bureaucracy that would make rules with little or no input from the cops on the beat—the banking agencies. That is why I am strongly supportive of Mr. MINNICK's amendment.

Mr. FRANK of Massachusetts. Since I am the one and final speaker, I continue to reserve the balance of my time.

Mr. MINNICK. I yield 30 seconds to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding.

Madam Chair, I rise in strong support of this amendment offered by my colleague from Idaho, which is similar to one that I offered during the Financial Services Committee markup. This amendment is a bipartisan, commonsense alternative to provisions in the underlying bill that would do a disservice to consumers.

One of the lessons that we have learned throughout this process is that bigger, uncoordinated government does not work when it comes to protecting consumers and regulating financial institutions.

Madam Chair, I rise in support of the amendment offered by my colleague from Idaho. Similar to one I offered during a Financial Services Committee markup, this amendment is a bipartisan, commonsense alternative to provisions in the underlying bill that would do a disservice to consumers.

What's the answer to the financial meltdown? How do we prevent it from happening again? What's not the answer is to create another federal agency. We already have the OCC, the OTS, the NCUA, the FDIC, the FTC, the SEC, the Fed, and the list goes on. The underlying bill would layer on a new federal bureaucracy that would allow five D.C. bureaucrats to dictate what financial products and services can be offered to consumers by anyone—from the church offering a funeral payment plan to a plumber charging to fix the kitchen sink.

The personalized services offered by your local 100-year-old community banks, churches, or plumber didn't create the financial crisis. Did our local 100-year-old community banks, churches, or your plumber create the mess? No. But all could fall under the burden of new regulations and taxes imposed by a new agency.

One of the lessons we've learned throughout this process is that bigger, uncoordinated government does not work when it comes to protecting consumers and regulating financial institutions. Instead, it only creates more cracks, confusion, and costs for consumers.

Americans are calling for stronger, smarter consumer protections. But that doesn't mean they want government to run their lives or the businesses in their communities. Nor do they want bigger government, more spending, and limited choice.

Some Members of this body think the government knows best. Others of us believe that with the right information, proper transparency, and full disclosure, families can and do make their own financial decisions. They don't need Big Brother to do it for them.

My colleague from Idaho offers a proposal today that answers the question: what about the consumer? His amendment codifies, expands, and energizes an existing body, a council of regulators, and charges it with a clear mission to better protect consumers. It establishes a mechanism for creating uniform consumer protection rules, maintains enforcement by prudential regulators, utilizes existing regulatory framework with no new bureaucracy or cost to taxpayers or small businesses, and it maintains national standards.

I urge my colleagues to support this amendment.

Mr. MINNICK. I yield 30 seconds to the gentleman from Washington (Mr. REICHERT).

Mr. REICHERT. I thank the gentleman.

Madam Chair, the choice is simple here. We can create a new, massive government bureaucracy, empower yet another czar to oversee our entire financial system, which will cost taxpayers millions more of their hard-earned money, or we can pass this amendment so that experienced regulators can better enforce the laws to protect our consumers from abuse while using existing resources. The choice is clear. Support this bipartisan, commonsense amendment that modernizes our regulatory system and helps Americans thrive in the 21st century.

Mr. MINNICK. Madam Chair, how much time is remaining?

The Acting CHAIR. The gentleman has 30 seconds remaining.

Mr. MINNICK. Madam Chair, the CBO has scored the total cost of my council and the components in the various agencies as less than $50 million. That compares to a massive new Federal bureaucracy they have scored at $4.6 billion.

How many times, Madam Chair, are we going to create a massive, new Federal bureaucracy to deal with an important priority? First, it was the expansion of the EPA and cap-and-trade to deal with climate change.

The Acting CHAIR. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield 1½ minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Ladies and gentlemen of the House, I want to, first of all, thank Mr. MINNICK. Mr. MINNICK is an extraordinarily able Member of this body, and he represents his district and our country well as a Member of the Congress of the United States.

This amendment, I think, has brought up an important discussion on the perspectives that we all have. I am one of those who believes that previous administrations had two very deep failures:

One was fiscal irresponsibility. We did not pay for what we bought, even at times when we said the economy was in good shape. We continued to borrow at record rates, taking a $5.6 trillion surplus and turning it into a $10 trillion deficit.

The other major failure, I think, of the previous administration was regulatory neglect. It had the power, as

Chairman FRANK has just pointed out, in a 1994 bill, to intervene, to try to put a check on two things—number one, on subprime lending. It did not. Mr. Greenspan testified just a couple of years ago that he thought that it was a mistake. He thought people would not take risks beyond that which were appropriate, and therefore, did not step in to regulate the subprime market. As a result, we confronted crisis.

The second big bipartisan mistake was with the Clinton administration and the Republican Congress. The Clinton administration was, obviously, led by President Clinton and Phil Gramm in the Senate. They said, We don't need to look at the derivatives market. The derivatives market will take care of itself. The head of the CFTC advised heavily and tried on her own authority, because she had the authority, to regulate the derivatives market.

The Congress stepped in, and I think I probably voted for the bill. It was an extraordinary mistake on my part. Phil Gramm led the effort which said, No, we don't need to impede this robust market that was apparently making all of us so much money.

Now, Mr. FRANK advises me—and I, frankly, am not an expert on it—that most of the employees of which we are talking are going to be transferred employees, not new employees.

On regulatory neglect, I think the administration did this: They said, essentially, The free market left to its own devices will grow the economy and will create jobs, and we ought not to impede that growth and that expansion. As a result of taking the referee off the field, all the little guys got trampled on. That's not unusual. I guarantee you, if you take the referee off the football field, the split end is going to leave a second before the ball is hiked, not because the split end is a bad person but because the split end is in a competitive field and wants to take an advantage. We don't have to cast aspersions here, but people want to take advantage.

The philosophy of the Bush administration was: Don't get in the way. Regulation is bad. It undermines business. It undermines growth. Your no-cost-jobs program at its heart says, Get out of the way. Reduce regulation. We have a real difference on this issue.

Franklin Roosevelt came in and said, The reason we had a stock market crash is because there were no referees. Under his leadership, we created a lot of referees. Very frankly, for 60 or 70 years, they kept this country pretty much on track, but we got way off track. My friends, when you wring your hands about the cost of this referee, which is called the Consumer Financial Protection Agency—and I don't accept the costs that you use, but let's say there is a significant cost. Let's say it's a couple of billion dollars. You say it's $4 billion. Let's just say, for the sake of argument, that it's a couple of billion dollars.

□ 1200

It pales into insignificance in the $1.5 trillion that we have borrowed to get this country out of the deep, deep, deep hole caused by the failure to regulate properly. And it wasn't the rich guys on Wall Street that paid that price; it was every one of our taxpayers that paid that price.

So when you talk about cost, the cost of doing nothing, the cost of not having a referee on the field, skews the game so badly that the little guys, the guys who sent us here, the guys who asked us to protect them from those over which they have no power to protect, they said, Protect us.

That is what this debate is about. The administration has sent down and said, Look, the SEC has its responsibility, the FDIC has its responsibility, CFTC has its responsibility, all have responsibility to make sure that our economy can grow, that trading markets can be open, honest, transparent and fair.

They look to the people who are in those markets. Most of the people are not in those markets. They are our people, the little people, the average guy who goes to work, works hard, who tries to pay his mortgage, keep his family fed and clothed and his kids educated.

He doesn't know about what all these guys are doing in the derivatives market. Nobody knew what was going on. The people who were investing in the derivatives market didn't know what was going on. There was no oversight.

Madam Chair, the distinguished lady from Prince George's County, Maryland; Montgomery County, DONNA EDWARDS, as we know, one of the central causes of our economic crisis, as I have said, was abusive consumer lending, signing Americans up for loans that they had no way of paying back. Nobody said, Time out; you're offsides; penalty. Nobody said that.

Why? Because if we did that, that would impede business. That would undermine the growth of this free market economy. That's why we have antitrust laws, so that we don't have some big guy ultimately take it all, because they can underprice and shove out. We saw that with, frankly, our friends in Microsoft who did an extraordinary job in building our economy, but at some point in time said, Time out, you've got to have competitors in this business.

For years, that practice went ignored by Washington regulators. And for a financial sector that placed massive bets on subprime mortgages, the results were eventually and tragically, for our people, catastrophic. The same abusive practices are at work in payday lending, in money transfers, and in many credit card policies, as Chairman FRANK has so ably pointed out.

In each case, Americans can wind up trapped in debt. While we do expect responsibility from anyone taking out a loan, we also must ensure that those loans are fair, transparent and written in plain language.

I'm a Georgetown lawyer. I think I'm reasonably bright. I've gone to real estate settlements and we have all gotten these forms and disclosures. I bet there is nobody here who has gone to a settlement who has read all those papers. Period. I think they are way too much paper, because I don't think, even if they read it they would understand it. Very frankly, if they read it, understood it and didn't like paragraph 5, called up their lender and said, I don't like paragraph 5, the lender would say, That's fine, you don't get the money. You sign it or else.

They're counting on us. This is a time when they are counting on us. This is a time when we can respond. That is exactly what the Consumer Financial Protection Agency would do. That is its purpose, to protect them.

I understand there are concerns about it, and I congratulate Mr. MINNICK for raising this issue and I appreciate his perspective. I simply disagree. It would take up the oversight responsibility that I think has been abandoned. It would safeguard consumers from exploitation and it would protect our economy from another collapse.

On the face of it, abandoning the CFPA and replacing it with a Consumer Financial Protection Council sounds like a superficial change, but in my opinion it is a very clear substantive change and not one that I would support. The council would be made up of 12 existing regulators who have already demonstrated, not the individuals, but the institutions, that they did not step up to the plate and say, you're offside; there's a penalty.

Rather than concentrating a wide range of oversight functions in a single body as a CFPA would do, the council would be an unwieldy and slow-moving bureaucracy. We talk about bureaucracy, we want somebody to focus and have a singular responsibility of making sure people don't get offsides so the little guys get hurt. It would not enhance, in my opinion, national consumer protection laws. It would undo this bill's expanded protections over the abusive practices that endanger the economic security of millions. Those abusive practices did lasting damage to Americans' lives, and we cannot let them down by watering down this bill.

I want to congratulate Chairman FRANK. I want to congratulate the members of the committee on both sides of the aisle. This, I think, is a critical decision that we will make. Americans sent us here to, in effect, be their referee, to call time out, to say we want to make sure the game is fair. We want to make sure that the little guy doesn't get hurt, with all due respect to my friend, who I think does an extraordinary job. On this we disagree.

I ask the Members of this House to reject the Minnick amendment.

The Acting CHAIR. All time for debate has expired.

The question is on the amendment offered by the gentleman from Idaho (Mr. MINNICK).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Mr. FRANK of Massachusetts. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Idaho will be postponed.

AMENDMENT NO. 36, AS MODIFIED, OFFERED BY MR. BACHUS

The Acting CHAIR. It is now in order to consider amendment No. 36 printed in House Report 111–370, as modified by the order of the House of December 10, 2009.

Mr. BACHUS. Madam Chair, I have an amendment at the desk made in order under the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment in the nature of a substitute offered by Mr. BACHUS, as modified:

Strike all after the enacting clause and insert the following:

SEC. 1. SHORT TITLE.

This Act may be cited as the ''Consumer and Taxpayer Protection Act of 2009''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—NO MORE BAILOUTS ACT

SEC. 1001. SHORT TITLE.

This title may be cited as the ''No More Bailouts Act of 2009''.

SEC. 1002. AMENDMENTS TO TITLE 28 OF THE UNITED STATES CODE.

Title 28 of the United States Code is amended—

(1) in section 1408 by striking ''section 1410'' and inserting ''sections 1409A and 1410'',

(2) by inserting after section 1409 the following:

''§ 1409A. Venue of cases involving non-bank financial institutions

''A case under chapter 14 may be commenced in the district court of the United States for the district—

''(1) in which the debtor has its principal place of business in the United States, principal assets in the United States, or in which there is pending a case under title 11 concerning the debtor's affiliate or subsidiary, if a Federal Reserve Bank is located in that district;

''(2) if venue does not exist under paragraph (1), in which there is a Federal Reserve Bank and in a Federal Reserve district in which the debtor has its principal place of business in the United States, principal assets in the United States, or in which there is pending a case under title 11 concerning the debtor's affiliate or subsidiary; or

''(3) if venue does not exist under paragraph (1) or (2), in which there is a Federal Reserve Bank and in a Federal circuit adjacent to the Federal circuit in which the debtor has its principal place of business or principal assets in the United States.'', and

(3) by amending the table of sections of chapter 87 of such title to insert after the item relating to section 1408 the following:

''1409A. Venue of cases involving non-bank financial institutions.''.

SEC. 1003. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (26) the following:

''(26A) The term 'functional regulator' means the Federal regulatory agency with the primary Federal regulatory authority over the debtor, such as an agency listed in section 509 of the Gramm-Leach-Bliley Act.'',

(2) by redesignating paragraphs (38A) and (38B) as paragraphs (38B) and (38C), respectively,

(3) by inserting after paragraph (38) the following:

''(38A) the term 'Market Stability and Capital Adequacy Board' means the entity established in section 1006 of the No More Bailouts Act of 2009.'', and

(4) by inserting after paragraph (40) the following:

''(40A) The term 'non-bank financial institution' means an institution the business of which is engaging in financial activities that is not an insured depository institution.''.

(b) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a) by striking ''13'' and inserting ''13, and 14'',

(2) by redesignating subsection (k) as subsection (l), and

(3) by inserting after subsection (j) the following:

''(k) Chapter 14 applies only in a case under such chapter.''.

(c) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (2) by striking ''or'' at the end,

(B) in paragraph (3) by striking the period at the end and insert and inserting ''; or'', and

(C) by adding at the end the following:

''(4) a non-bank financial institution that has not been a debtor under chapter 14 of this title.'',

(2) in subsection (d) by striking ''or commodity broker'' and inserting '', commodity broker, or a non-bank financial institution'', and

(3) by adding at the end the following:

''(i) Only a non-bank financial institution may be a debtor under chapter 14 of this title.''.

(d) INVOLUNTARY CASES.—Section 303 of title 11, the United States Code, is amended—

(1) in subsection (a) by striking ''or 11'' and inserting '', 11, or 14'', and

(2) in subsection (b) by striking ''or 11'' and inserting '', 11, or 14''.

(e) OBTAINING CREDIT.—Section 364 of title 11, United States Code, is amended by adding at the end the following:

''(g) Notwithstanding any other provision of this section, the trustee may not, and the court may not authorize the trustee to, obtain credit, if the source of that credit either directly or indirectly is the United States.''.

(f) CHAPTER 14.—Title 11, United States Code, is amended—

(1) by inserting the following after chapter 13:

''CHAPTER 14—ADJUSTMENT TO THE DEBTS OF A NON-BANK FINANCIAL INSTITUTION

''§ 1401. Inapplicability of other sections

''Except as provided in section 1407, sections 362(b)(6), 362(b)(7), 362(b)(17), 546(e), 546(f), 546(g), 555, 556, 559, 560, and 561 do not apply in a case under this chapter.

''§ 1402. Applicability of chapter 11 to cases under this chapter

''With the exception of sections 1104(d), 1109, 1112(a), 1115, and 1116, subchapters I, II, and III of chapter 11 apply in a case under this chapter.

''§ 1403. Prepetition consultation

''(a) Subject to subsection (b)—

''(1) a non-bank financial institution may not be a debtor under this chapter unless that institution has, at least 10 days prior to the date of the filing of the petition by such institution, taken part in the consultation described in subsection (c); and

''(2) a creditor may not commence an involuntary case under this chapter unless, at least 10 days prior to the date of the filing of the petition by such creditor, the creditor notifies the non-bank financial institution, the functional regulator, and the Market Stability and Capital Adequacy Board of its intent to file a petition and requests a consultation as described in subsection (c).

''(b) If the non-bank financial institution, the functional regulator, and the Market Stability and Capital Adequacy Board, in consultation with any agency charged with administering a nonbankruptcy insolvency regime for any component of the debtor, certify that the immediate filing of a petition under section 301 or 303 is necessary, or that an immediate filing would be in the interests of justice, a petition may be filed notwithstanding subsection (a).

''(c) The non-bank financial institution, the functional regulator, the Market Stability and Capital Adequacy Board, and any agency charged with administering a nonbankruptcy insolvency regime for any component of the debtor shall engage in prepetition consultation in order to attempt to avoid the need for the non-bank financial institution's liquidation or reorganization in bankruptcy, to make any liquidation or reorganization of the non-bank financial institution under this title more orderly, or to aid in the nonbankruptcy resolution of any of the non-bank financial institution's components under its nonbankruptcy insolvency regime. Such consultation shall specifically include the attempt to negotiate forbearance of claims between the non-bank financial institution and its creditors if such forbearance would likely help to avoid the commencement of a case under this title, would make any liquidation or reorganization under this title more orderly, or would aid in the nonbankruptcy resolution of any of the non-bank financial institution's components under its nonbankruptcy insolvency regime. Additionally, the consultation shall consider whether, if a petition is filed under section 301 or 303, the debtor should file a motion for an exemption authorized by section 1407.

''(d) The court may allow the consultation process to continue for 30 days after the petition, upon motion by the debtor or a creditor. Any post-petition consultation proceedings authorized should be facilitated by the court's mediation services, under seal, and exclude ex parte communications.

''(e) The Market Stability and Capital Adequacy Board and the functional regulator shall publish and transmit to Congress a report documenting the course of any consultation. Such report shall be published and transmitted to Congress within 30 days of the conclusion of the consultation.

''(f) Nothing in this section shall be interpreted to set aside any of the limitations on the use of Federal funds set forth in the No More Bailouts Act of 2009 or the amendments made by such Act.

''§ 1404. Appointment of trustee

''In applying section 1104 to a case under this chapter, if the court orders the appointment of a trustee or an examiner, if the trustee or an examiner dies or resigns during the case or is removed under section 324, or if a trustee fails to qualify under section 322, the functional regulator, in consultation with the Market Stability and Capital Adequacy Board, shall submit a list of five disinterested persons that are qualified and willing to serve as trustees in the case and the United States trustee shall appoint, subject to the court's approval, one of such persons to serve as trustee in the case.

''§ 1405. Right to be heard

''(a) The functional regulator, the Market Stability and Capital Adequacy Board, the Federal Reserve, the Department of the Treasury, the Securities and Exchange Commission, and any domestic or foreign agency charged with administering a nonbankruptcy insolvency regime for any component of the debtor may raise and may appear and be heard on any issue in a case under this chapter, but may not appeal from any judgment, order, or decree entered in the case.

''(b) A party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or any indenture trustee may raise, and may appear and be heard on, any issue in a case under this chapter.

''§ 1406. Right to communicate

''The court is entitled to communicate directly with, or to request information or assistance directly from, the functional regulator, the Market Stability and Capital Adequacy Board, the Board of Governors of the Federal Reserve System, the Department of the Treasury, or any agency charged with administering a nonbankruptcy insolvency regime for any component of the debtor, subject to the rights of a party in interest to notice and participation.

''§ 1407. Exemption with respect to certain contracts or agreements

''(a) Subject to subsection (b)—

''(1) upon motion of the debtor, consented to by the Market Stability and Capital Adequacy Board—

''(A) the debtor and the estate shall be exempt from the operation of sections 362(b)(6), 362(b)(7), 362(b)(17), 546(e), 546(f), 546(g), 555, 556, 559, 560, and 561;

''(B) if the Market Stability and Capital Adequacy Board consents to the filing of such motion by the debtor, the Board shall inform the court of its reasons for consenting; and

''(C) the debtor may limit its motion, or the board may limit its consent, to exempt the debtor and the estate from the operation of section 362(b)(6), 362(b)(7), 362(b)(17), 546(e), 546(f), 546(g), 555, 556, 559, 560, or 561, or any combination thereof; and

''(2) if the Market Stability and Capital Adequacy Board does not consent to the filing of a motion by the debtor under paragraph (1), the debtor may file a motion to exempt the debtor and the estate from the operation of sections 362(b)(6), 362(b)(7), 362(b)(17), 546(e), 546(f), 546(g), 555, 556, 559, 560, and 561, or any combination thereof.

''(b) The court shall commence a hearing on a motion under subsection (a) not later than 5 days after the filing of the motion to determine whether to maintain, terminate, annul, modify, or condition the exemption under subsection (a)(1) or, in the case of a motion under subsection (a)(2), grant the exemption. The court shall request the filing or briefs by the functional regulator and the Market Stability and Capital Adequacy Board. The court shall decide the motion not later than 5 days after commencing such hearing unless—

''(1) the parties in interest consent to a extension for a specific period of time; or

''(2) except with respect to an exemption from the operation of section 559, the court sua sponte extends for 5 additional days the period for decision if such extension would be in the interests of justice or is required by compelling circumstances.

''(c) The court shall maintain, terminate, annul, modify, or condition the exemption under subsection (a)(1), or, in the case of a motion under subsection (a)(2), grant the exemption only upon showing of good cause. In determining whether good cause has been shown, the court shall balance the interests of both debtor and creditors while attempting to preserve the debtor's assets for repayment and reorganization of the debtors obligations, or to provide for a more orderly liquidation.

''(d) For purposes of timing under section 562 of this title, if a motion is filed under subsection (a)(1) or if a motion is granted under subsection (a)(2), the date or dates of liquidation, termination, or acceleration shall be measured from the earlier of—

''(1) the actual date or dates of liquidation, termination, or acceleration; or

''(2) the date on which a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, financial participant, master netting agreement participant, or swap participant files a notice with the court that it would have liquidated, terminated, or accelerated a contract or agreement covered by section 562 of this title had a stay under this section not been in place.

''§ 1408. Conversion or dismissal

''In applying section 1112 to a case under this chapter, the debtor may convert a case under this chapter to a case under chapter 7 of this title if the debtor may be a debtor under such chapter unless the debtor is not a debtor in possession.'', and

(2) by amending the table of chapters of such title by adding at the end the following:

SEC. 1004. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this title.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply only with respect to cases commenced under

title 11 of the United States Code on or after the date of the enactment of this title.

SEC. 1005. REFORMS OF SECTION 13 EMERGENCY POWERS.

(a) RESTRICTIONS ON EMERGENCY POWERS.—The third undesignated paragraph of section 13 of the Federal Reserve Act is amended—

(1) by striking ''In unusual and exigent'' and inserting the following:

''(3) EMERGENCY AUTHORITY.—

''(A) IN GENERAL.—In unusual and exigent''; and

(2) by adding at the end the following new subparagraph:

''(B) REQUIREMENT FOR BROAD AVAILABILITY OF DISCOUNTS.—Subject to the limitations provided under subparagraph (A), any authorization made pursuant to the authority provided under subparagraph (A) shall require discounts to be made broadly available to individuals, partnerships, and corporations within the market sector for which such authorization is being made.

''(C) TRANSPARENCY AND OVERSIGHT.—

''(i) SECRETARY OF THE TREASURY APPROVAL REQUIRED; NOTICE TO THE CONGRESS.—No authorization may be made pursuant to the authority provided under subparagraph (A) unless—

''(I) such authorization is first approved by the Secretary of the Treasury; and

''(II) the Secretary of the Treasury issues a notice to the Congress detailing what authorization the Secretary has approved.

''(ii) PROGRAMS MOVED ON-BUDGET AFTER 90 DAYS.—On and after the date that is 90 days after the date on which any authorization is made pursuant to the authority provided under subparagraph (A), all receipts and disbursements resulting from such authorization shall be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

''(I) the budget of the United States Government as submitted by the President;

''(II) the congressional budget; and

''(III) the Balanced Budget and Emergency Deficit Control Act of 1985.

''(D) JOINT RESOLUTION OF DISAPPROVAL.—

''(i) IN GENERAL.—With respect to an authorization made pursuant to the authority provided under subparagraph (A), if, during the 90-day period beginning on the date the Congress receives a notice described under subparagraph (C)(i)(II) with respect to such authorization, there is enacted into law a joint resolution disapproving such authorization, any action taken under such authorization must be discontinued and unwound not later than the end of the 180-day period beginning on the date that such authorization was made.

''(ii) CONTENTS OF JOINT RESOLUTION.—For the purpose of this paragraph, the term 'joint resolution' means only a joint resolution—

''(I) that is introduced not later than 3 calendar days after the date on which the notice referred to in clause (i) is received by the Congress;

''(II) which does not have a preamble;

''(III) the title of which is as follows: 'Joint resolution relating to the disapproval of authorization under the emergency powers of the Federal Reserve Act'; and

''(IV) the matter after the resolving clause of which is as follows: 'That Congress disapproves the authorization contained in the notice submitted to the Congress by the Secretary of the Treasury on the date of _____ relating to _____.' (The blank spaces being appropriately filled in.).

''(E) FAST TRACK CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

''(i) RECONVENING.—Upon receipt of a notice referred to in subparagraph (D)(i), the Speaker, if the House would otherwise be adjourned, shall notify the Members of the House that, pursuant to this section, the House shall convene not later than the second calendar day after receipt of such report.

''(ii) REPORTING AND DISCHARGE.—Any committee of the House of Representatives to which a joint resolution is referred shall report it to the House not later than 5 calendar days after the date of receipt of the notice referred to in subparagraph (D)(i). If a committee fails to report the joint resolution within that period, the committee shall be discharged from further consideration of the joint resolution and the joint resolution shall be referred to the appropriate calendar.

''(iii) PROCEEDING TO CONSIDERATION.—After each committee authorized to consider a joint resolution reports it to the House or has been discharged from its consideration, it shall be in order, not later than the sixth day after Congress receives the notice referred to in subparagraph (D)(i), to move to proceed to consider the joint resolution in the House. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the joint resolution. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

''(iv) CONSIDERATION.—The joint resolution shall be considered as read. All points of order against the joint resolution and against its consideration are waived. The previous question shall be considered as ordered on the joint resolution to its passage without intervening motion except two hours of debate equally divided and controlled by the proponent and an opponent. A motion to reconsider the vote on passage of the joint resolution shall not be in order.

''(F) FAST TRACK CONSIDERATION IN SENATE.—

''(i) RECONVENING.—Upon receipt of a notice referred to in subparagraph (D)(i), if the Senate has adjourned or recessed for more than 2 days, the majority leader of the Senate, after consultation with the minority leader of the Senate, shall notify the Members of the Senate that, pursuant to this section, the Senate shall convene not later than the second calendar day after receipt of such message.

''(ii) PLACEMENT ON CALENDAR.—Upon introduction in the Senate, the joint resolution shall be placed immediately on the calendar.

''(iii) FLOOR CONSIDERATION.—

''(I) IN GENERAL.—Notwithstanding Rule XXII of the Standing Rules of the Senate, it is in order at any time during the period beginning on the 4th day after the date on which Congress receives a notice referred to in subparagraph (D)(i) and ending on the 6th day after the date on which Congress receives a notice referred to in subparagraph (D)(i) (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion to proceed is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the joint resolution shall remain the unfinished business until disposed of.

''(II) DEBATE.—Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between the majority and minority leaders or their designees. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order.

''(III) VOTE ON PASSAGE.—The vote on passage shall occur immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate.

''(IV) RULINGS OF THE CHAIR ON PROCEDURE.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

''(G) RULES RELATING TO SENATE AND HOUSE OF REPRESENTATIVES.—

''(i) COORDINATION WITH ACTION BY OTHER HOUSE.—If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

''(I) The joint resolution of the other House shall not be referred to a committee.

''(II) With respect to a joint resolution of the House receiving the resolution—

''(aa) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

''(bb) the vote on passage shall be on the joint resolution of the other House.

''(ii) TREATMENT OF JOINT RESOLUTION OF OTHER HOUSE.—If one House fails to introduce or consider a joint resolution under this section, the joint resolution of the other House shall be entitled to expedited floor procedures under this section.

''(iii) TREATMENT OF COMPANION MEASURES.—If, following passage of the joint resolution in the Senate, the Senate then receives the companion measure from the House of Representatives, the companion measure shall not be debatable.

''(iv) VETOES.—If the President vetoes the joint resolution, debate on a veto message in the Senate under this section shall be 1 hour equally divided between the majority and minority leaders or their designees.

''(v) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subparagraph and subparagraphs (D), (E), and (F) are enacted by Congress—

''(I) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

''(II) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.''.

(b) CURRENT PROGRAMS MOVED ON-BUDGET.—Not later than 90 days after the date of the enactment of this title, all receipts and disbursements resulting from any authorization made before the date of the enactment of this title pursuant to the authority granted by the third undesignated paragraph of section 13 of the Federal Reserve Act shall be counted as new budget authority, outlays, receipts, or deficit or surplus for purposes of—

(1) the budget of the United States Government as submitted by the President;

(2) the congressional budget; and

(3) the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 1006. ESTABLISHMENT OF MARKET STABILITY AND CAPITAL ADEQUACY BOARD.

(a) IN GENERAL.—There is hereby established the Market Stability and Capital Adequacy Board (hereafter in this title referred to as the ''Board'') as an independent establishment in the Executive Branch.

(b) CONSTITUTION OF BOARD.—Subject to paragraph (4), the Board shall have 12 members as follows:

(1) PUBLIC MEMBERS.—The following shall be members of the Board—

(A) The Secretary of the Treasury.

(B) The Chairman of the Board of Governors of the Federal Reserve System.

(C) The Chairman of the Securities and Exchange Commission.

(D) The Chairperson of the Federal Deposit Insurance Corporation.

(E) The Chairman of the Commodity Futures Trading Commission.

(F) The Comptroller of the Currency.

(G) The Director of the Office of Thrift Supervision.

(2) PRIVATE MEMBERS.—The Board shall also have 5 members appointed by the President, by and with the advice and consent of the Senate, who shall be appointed from among individuals who—

(A) are specially qualified to serve on the Board by virtue of their education, training, and experience; and

(B) are not officers or employees of the Federal Government, including the Board of Governors of the Federal Reserve System.

(3) CHAIRPERSON.—The Secretary of the Treasury shall serve as the Chairperson of the Board.

(4) DIRECTOR OF FHFA AS INTERIM MEMBER.—Until such time as the charters of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are both repealed pursuant to section 7006(d), the Board shall consist of 13 members with the Director of the Federal Housing Finance Agency serving as a public member under paragraph (1).

(c) APPOINTMENTS.—

(1) TERM.—

(A) IN GENERAL.—Each appointed member shall be appointed for a term of 5 years.

(B) STAGGERED TERMS.—Of the members of the Board first appointed under subsection (b)(2), as designated by the President at the time of appointment—

(i) 1 shall be appointed for a term of 5 years;

(ii) 1 shall be appointed for a term of 4 years;

(iii) 1 shall be appointed for a term of 3 years;

(iv) 1 shall be appointed for a term of 2 years; and

(v) 1 shall be appointed for a term of 1 year.

(2) INTERIM APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term.

(3) CONTINUATION OF SERVICE.—Each appointed member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed and qualified.

(4) REAPPOINTMENT TO A 2ND TERM.—Each member appointed to a term on the Board under subsection (b)(2), including an interim appointment under paragraph (2), may be reappointed by the President to serve 1 additional term.

(d) VACANCY.—

(1) IN GENERAL.—Any vacancy on the Board shall be filled in the manner in which the original appointment was made.

(2) ACTING OFFICIALS MAY SERVE.—In the event of a vacancy in any position listed in subsection (b)(1) and pending the appointment of a successor, or during the absence or disability of the individual serving in such position, any acting official in such position shall be a member of the Board while such vacancy, absence or disability continues and the acting official continues acting in such position.

(e) INELIGIBILITY FOR OTHER OFFICES.—

(1) POSTSERVICE RESTRICTION.—No member of the Board may hold any office, position, or employment in any financial institution or affiliate of a financial institution during—

(A) the time such member is in office; and

(B) the 2-year period beginning on the date such member ceases to serve on the Board.

(2) CERTIFICATION.—Upon taking office, each member of the Board shall certify under oath that such member has complied with this subsection and such certification shall be filed with the secretary of the Board.

(f) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 3 members of the Board appointed under subsection (b)(2) shall be from the same political party.

(2) QUALIFICATIONS GENERALLY.—It is the sense of the Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience commensurate with the duties of the Board.

(3) SPECIFIC APPOINTMENT QUALIFICATIONS FOR CERTAIN APPOINTED MEMBERS.—

(A) STATE BANK.—Of the members appointed to the Board under subsection (b)(2), at least 1 shall be appointed from among individuals who have had experience as a State bank supervisor or senior management executive with a State depository institution.

(B) INSURANCE COMMISSIONER.—Of the members appointed to the Board under subsection (b)(2), at least 1 shall be appointed from among individuals who have served as a State insurance commissioner or supervisor.

(4) INITIAL MEETING.—The Board shall meet and begin the operations of the Board as soon as practicable but not later than the end of the 180-day period beginning the date of the enactment of this title.

(g) QUORUM.—Four of the members of the Board designated under subsection (b)(1) and 3 members of the Board appointed under (b)(2) shall constitute a quorum.

(h) QUARTERLY MEETINGS.—The Board shall meet upon the call of the chairperson or a majority of the members at least once in each calendar quarter

SEC. 1007. FUNCTIONS OF BOARD.

(a) PRINCIPAL FUNCTIONS.—The principal functions of the Board shall be to—

(1) monitor the interactions of various sectors of the financial system; and

(2) identify risks that could endanger the stability and soundness of the system.

(b) SPECIFIC REVIEW FUNCTIONS INCLUDED.—In carrying out the functions described in subsection (a), the Board shall—

(1) review financial industry data collected from the appropriate functional regulators;

(2) review insurance industry data, in coordination with State insurance supervisors, for all lines of insurance other than health insurance;

(3) monitor government policies and initiatives;

(4) review risk management practices within financial regulatory agencies;

(5) review capital standards set by the appropriate functional regulators and make recommendations to ensure capital and leverage ratios match risks regulated entities are taking on;

(6) review transparency and regulatory understanding of risk exposures in the over-the-counter derivatives markets and make recommendations regarding the appropriate clearing of trades in those markets through central counterparties;

(7) make recommendations regarding any government or industry policies and practices that are exacerbating systemic risk; and

(8) take such other actions and make such other recommendations as the Board, in the discretion of the Board, determines to be appropriate.

(c) REPORTS TO FEDERAL FUNCTIONAL REGULATORS AND THE CONGRESS.—The Board shall periodically make a report to the Congress and the functional regulators on the findings, conclusions, and recommendations of the Board in a manner and within a time frame that allows the Congress and such regulators to act to contain risks posed by specific firms, industry practices, activities and interactions of entities under different regulatory regimes, or government policies.

(d) TESTIMONY TO CONGRESS.—Not later than February 20 and July 20 of each year, the Chairperson of the Board shall testify to the Congress at semiannual hearings before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, about the state of systemic risk in the financial services industry and proposals or recommendations by the Board to address any undue risk.

(e) RULE OF CONSTRUCTION.—No provision of this title shall be construed as giving the Board any enforcement authority over any financial institution.

SEC. 1008. POWERS OF BOARD.

(a) CONTRACTING.—The Board may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Board to discharge its duties under this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Board may secure directly from any executive department, agency, or independent establishment, or any other instrumentality of the United States information and recommendations for the purposes of this title.

(2) DELIVERY OF REQUESTED INFORMATION.—Each executive department, agency, or independent establishment, or any other instrumentality of the United States shall, to the extent authorized by law, furnish any information and recommendations requested under paragraph (1) directly to the Board, upon request made by the chairperson or any member designated by a majority of the Commission.

(3) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Board and its staff consistent with all applicable statutes, regulations, and Executive orders.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Board on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law, including agencies represented on the Board under section 1006(b)(1).

SEC. 1009. RESPONSIBILITIES OF FEDERAL FUNCTIONAL REGULATORS.

(a) FEDERAL FUNCTIONAL REGULATOR DEFINED.—For purposes of this title, the term

''Federal functional regulator'' has the same meaning as in section 509(2) of the Gramm-Leach-Bliley Act, except that such term includes the Commodity Futures Trading Commission.

(b) ASSESSMENTS AND REVIEWS.—In order to address current regulatory gaps, each Federal functional regulator shall, before each quarterly meeting of the Board—

(1) assess the effects on macroeconomic stability of the activities of financial institutions that are subject to the jurisdiction of such agency;

(2) review how such financial institutions interact with entities outside the jurisdiction of such agency; and

(3) report the results of such assessment and review to the Board, together with such recommendations for administrative action as the agency determines to be appropriate.

SEC. 1010. STAFF OF BOARD.

(a) APPOINTMENT AND COMPENSATION.—The chairperson, in accordance with rules agreed upon by the Board and title 5, United States Code, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Board to carry out its functions.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Board and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Board may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 1011. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Board appointed under section 1006(b)(2) may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

TITLE II—FINANCIAL INSTITUTIONS CONSUMER PROTECTION AND EXAMINATION COUNCIL

SEC. 2001. SHORT TITLE.

This title may be cited as the ''Financial Institutions Consumer Protection and Examination Council Act of 2009''.

SEC. 2002. DEFINITIONS.

(a) RENAMING COUNCIL.—The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by striking ''Financial Institutions Examination Council'' each place it appears, except for in section 1001 of such Act, and inserting ''Financial Institutions Consumer Protection and Examination Council''.

(b) DEFINITIONS RELATING TO CONSUMER PROTECTION.—Section 1003 of such Act (12 U.S.C. 3302) is amended—

(1) in paragraph (2), by striking ''and''; and

(2) by adding at the end the following new paragraphs:

''(4) the term 'enumerated consumer laws' means—

''(A) the Alternative Mortgage Transaction Parity Act (12 U.S.C. 3801 et seq.);

''(B) the Community Reinvestment Act;

''(C) the Consumer Leasing Act;

''(D) the Electronic Funds Transfer Act (15 U.S.C. 1693 et seq.);

''(E) the Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.);

''(F) the Fair Credit Billing Act;

''(G) the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

''(H) the Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.);

''(I) subsections (c), (d), (e), and (f) of section 43 of the Federal Deposit Insurance Act (12 U.S.C. 1831t);

''(J) sections 502, 503, 504, 505, 506, 507, 508, and 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6802 et seq.);

''(K) the Home Mortgage Disclosure Act (12 U.S.C. 2801 et seq.);

''(L) the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.);

''(M) the Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. 5101 et seq.);

''(N) the Truth in Lending Act (15 U.S.C. 1601 et seq.);

''(O) the Truth in Savings Act (12 U.S.C. 4301 et seq.); and

''(5) the term 'expanded Board' means——

''(A) the members of the Council described under section 1004(a);

''(B) the Secretary of Housing and Urban Development;

''(C) the Chairman of the Securities and Exchange Commission;

''(D) the Chairman of the Commodities Futures Trading Commission;

''(E) the Chairman of the Federal Trade Commission;

''(F) the Director of the Federal Housing Finance Agency;

''(G) the Director of the Pension Benefit Guarantee Corporation;

''(H) the Secretary of the Treasury;

''(I) the Secretary of Defense; and

''(J) the Secretary of Veterans' Affairs.''.

(c) DEFINITIONS RELATED TO THE STATE LIAISON COMMITTEE.—Section 1007 of such Act (12 U.S.C. 3306) is amended by inserting after ''financial institutions'' the following: ''and one representative of the National Association of Insurance Commissioners''.

SEC. 2003. FINANCIAL INSTITUTIONS CONSUMER PROTECTION AND EXAMINATION COUNCIL.

(a) CONSUMER PROTECTION DUTIES.—Section 1006 of the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3305) is amended by adding at the end the following new subsection:

''(h) CONSUMER PROTECTION REGULATIONS.—

''(1) IN GENERAL.—The Council shall study the need for revised or new regulations for the protection of consumers under the enumerated consumer laws and shall vote on suggested model regulations that the Council determines necessary for the protection of consumers under the enumerated consumer laws.

''(2) REGULATIONS ISSUED BY COUNCIL MEMBERS.—Not later than the end of the 1-month period beginning on the date a suggested model regulation is agreed to by the Council by a majority vote of the members of the Council, the members of the Council, other than the Chairman of the State Liaison Committee, shall jointly issue regulations based on such suggested model regulation, where applicable.

''(3) EXPANDED BOARD REQUIRED.—For purposes of any action taken pursuant to this subsection and any reference to the members of the Council under this subsection, the Council shall consist of the expanded Board.

''(4) NO COUNCIL ENFORCEMENT POWER.—No provision of this subsection shall be construed as conferring any enforcement authority to the Council.

''(5) REQUIREMENTS FOR REGULATIONS PROPOSED BY THE CHAIRMAN OF THE STATE LIAISON COMMITTEE.—

''(A) IN GENERAL.—The Chairman of the State Liaison Committee may not propose any suggested model regulation for the Council to vote on under this subsection unless such proposed suggested model regulation is accompanied by a certification from the Chairman of the State Liaison Committee stating that more than half of the States support such proposal.

''(B) METHOD OF DETERMINATION.—For purposes of this paragraph, the Chairman of the State Liaison Committee shall determine the method for determining if a State supports a proposal.''.

(b) ADDITIONAL STAFF.—Section 1008 of such Act (12 U.S.C. 3307) is amended by adding at the end the following new subsection:

''(d) CONSUMER PROTECTION STAFF.—

''(1) IN GENERAL.—At the request of the Council, any member of the expanded Board, other than the Chairman of the State Liaison Committee, may detail, on a reimbursable basis, any of the personnel of that member's department or agency to the Council to assist it in carrying out the Council's duties under subsection (h).

''(2) EXPANDED BOARD REQUIRED.—When making any request under this subsection, the Council shall consist of the expanded Board.''.

SEC. 2004. OFFICE OF CONSUMER PROTECTION.

The Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. 3301 et seq.) is amended by adding at the end the following new section:

''SEC. 1012. OFFICE OF CONSUMER PROTECTION.

''(a) OFFICE OF CONSUMER PROTECTION.—There is hereby established within the Council an Office of Consumer Protection (hereinafter in this section referred to as the 'Office').

''(b) CONSUMER COMPLAINT HOTLINE AND WEBSITE.—The Office shall establish a toll-free hotline and a website for consumers to contact regarding inquiries or complaints related to consumer protection. Such hotline and website shall then refer such inquiries or complaints to the appropriate Council member, which will then respond to the inquiry or complaint.

''(c) DISCLOSURE REVIEW.—Not less often than once every 7 years, the Office shall undertake a comprehensive review of the rules and regulations regarding disclosures made by entities under the jurisdiction of the members of the Council to consumers. In making such review the Office shall perform a cost and benefit analysis of each such disclosure and determine if the policy of the members of the Council towards such disclosure should remain the same or be revised.

''(d) CONSUMER TESTING REQUIREMENT.—Before prescribing any regulation pursuant to section 1006(h), the Council shall have the Office carry out consumer testing with respect to such proposed model regulation.

''(e) PERIODIC REVIEW OF REGULATIONS.—

''(1) REVIEW.—Not less than once every 7 years, the Office shall undertake a comprehensive review of all regulations issued by the members of the Council pursuant to section 1006(h)(2). In making such review, the Office shall perform a cost and benefit analysis of each regulation and determine if such regulation should remain the same or if such regulation should be revised.

''(2) REPORT.—After performing a review required by paragraph (1), the Office shall issue a report to the Congress describing the review process, any determinations made by the Office, and any revisions to regulations that the Office determined were needed.''.

SEC. 2005. STATE ENFORCEMENT AUTHORITY.

(a) ENFORCEMENT OF COUNCIL REGULATIONS.—The Federal Financial Institutions

Examination Council Act of 1978 (12 U.S.C. 3301 et seq.), as amended by section 2004, is further amended by adding at the end the following new section:

"SEC. 1013. STATE ENFORCEMENT AUTHORITY.

''The chief law enforcement officer of a State, or an official or agency designated by a State, shall have the authority to enforce any regulations issued by the members of the Council pursuant to section 1006(h)(2) against entities regulated by such State.''.

(b) ENFORCEMENT OF STATE CONSUMER PROTECTION LAWS AGAINST NATIONAL BANKS AND THRIFTS.—Notwithstanding any other provision of law, other than section 5240 of the Revised Statutes and the comparable limitation on visitorial authority applicable to federal savings associations, the chief law enforcement officer of a State, or an official or agency designated by a State, shall have the right to enforce such State's non-preempted consumer protection laws against national banks.

SEC. 2006. UNFAIR OR DECEPTIVE ACTS OR PRACTICES AUTHORITY TRANSFERRED.

Section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) is amended—

(1) by striking ''(with respect to banks) and the Federal Home Loan Bank Board (with respect to savings and loan institutions described in paragraph (3))'' and inserting the following: ''(with respect to entities described in paragraph (2)(B)), the Comptroller of the Currency (with respect to entities described in paragraph (2)(A)), the Board of Directors of the Federal Deposit Insurance Corporation (with respect to entities described under paragraph (2)(C)), the Director of the Office of Thrift Supervision (with respect to savings associations or any savings and loan institutions described in paragraph (3)),'';

(2) by striking ''each such Board'' and inserting ''each such entity''; and

(3) by striking ''any such Board'' and inserting ''any such entity''.

SEC. 2007. EQUALITY OF CONSUMER PROTECTION FUNCTIONS; CONSUMER PROTECTION DIVISIONS.

(a) EQUALITY OF CONSUMER PROTECTION FUNCTIONS.—With respect to each regulatory agency, the functions of such agency related to consumer protection shall be of equal importance to such agency as the other functions of such agency.

(b) CONSUMER PROTECTION DIVISIONS.—

(1) IN GENERAL.—There is hereby established within each regulatory agency a consumer protection division.

(2) REPORT.—The head of each consumer protection division established under paragraph (1) shall submit an annual report to the Congress detailing the performance of the regulatory agency in which such division is located in enforcing the consumer protection laws.

(c) REGULATORY AGENCY DEFINED.—For purposes of this section, the term ''regulatory agency'' means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the National Credit Union Administration, the Federal Trade Commission, and the Department of Housing and Urban Development.

SEC. 2008. PROHIBITION ON CHARTER CONVERSIONS WHILE UNDER REGULATORY SANCTION.

With respect to an entity for which there is an appropriate Federal banking agency, as such term is defined under section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), such agency shall issue regulations prohibiting such an entity from converting the type of such entity's charter during any time in which such entity is under a regulatory sanction by such agency.

TITLE III—ANTI-FRAUD PROVISIONS

SEC. 3001. AUTHORITY TO IMPOSE CIVIL PENALTIES IN CEASE AND DESIST PROCEEDINGS.

(a) UNDER THE SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h–1) is amended by adding at the end the following new subsection:

''(g) AUTHORITY TO IMPOSE MONEY PENALTIES.—

''(1) GROUNDS FOR IMPOSING.—In any cease-and-desist proceeding under subsection (a), the Commission may impose a civil penalty on a person if it finds, on the record after notice and opportunity for hearing, that—

''(A) such person—

''(i) is violating or has violated any provision of this title, or any rule or regulation thereunder; or

''(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder; and

''(B) such penalty is in the public interest.

''(2) MAXIMUM AMOUNT OF PENALTY.—

''(A) FIRST TIER.—The maximum amount of penalty for each act or omission described in paragraph (1) shall be $6,500 for a natural person or $65,000 for any other person.

''(B) SECOND TIER.—Notwithstanding paragraph (A), the maximum amount of penalty for each such act or omission shall be $65,000 for a natural person or $325,000 for any other person if the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement.

''(C) THIRD TIER.—Notwithstanding paragraphs (A) and (B), the maximum amount of penalty for each such act or omission shall be $130,000 for a natural person or $650,000 for any other person if—

''(i) the act or omission described in paragraph (1) involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement; and

''(ii) such act or omission directly or indirectly resulted in substantial losses or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission.

''(3) EVIDENCE CONCERNING ABILITY TO PAY.—In any proceeding in which the Commission may impose a penalty under this section, a respondent may present evidence of the respondent's ability to pay such penalty. The Commission may, in its discretion, consider such evidence in determining whether such penalty is in the public interest. Such evidence may relate to the extent of such person's ability to continue in business and the collectability of a penalty, taking into account any other claims of the United States or third parties upon such person's assets and the amount of such person's assets.''.

(b) UNDER THE SECURITIES EXCHANGE ACT OF 1934.—Subsection (a) of section 21B of the Securities Exchange Act of 1934 (15 U.S.C. 78u–2(a)) is amended—

(1) by striking ''(a) COMMISSION AUTHORITY TO ASSESS MONEY PENALTIES.—In any proceeding'' and inserting the following:

''(a) COMMISSION AUTHORITY TO ASSESS MONEY PENALTIES.—

''(1) IN GENERAL.—In any proceeding'';

(2) by redesignating paragraphs (1) through (4) of such subsection as subparagraphs (A) through (D), respectively and moving such redesignated subparagraphs and the matter following such subparagraphs 2 ems to the right; and

(3) by adding at the end of such subsection the following new paragraph:

''(2) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to section 21C of this title against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

''(A) is violating or has violated any provision of this title, or any rule or regulation thereunder; or

''(B) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder.''.

(c) UNDER THE INVESTMENT COMPANY ACT OF 1940.—Paragraph (1) of section 9(d) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(d)(1)) is amended—

(1) by striking ''(1) AUTHORITY OF COMMISSION.—In any proceeding'' and inserting the following:

''(1) AUTHORITY OF COMMISSION.—

''(A) IN GENERAL.—In any proceeding'';

(2) by redesignating subparagraphs (A) through (C) of such paragraph as clauses (i) through (iii), respectively and by moving such redesignated clauses and the matter following such subparagraphs 2 ems to the right; and

(3) by adding at the end of such paragraph the following new subparagraph:

''(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (f) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

''(i) is violating or has violated any provision of this title, or any rule or regulation thereunder; or

''(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder.''.

(d) UNDER THE INVESTMENT ADVISERS ACT OF 1940.—Paragraph (1) of section 203(i) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(i)(1)) is amended—

(1) by striking ''(1) AUTHORITY OF COMMISSION.—In any proceeding'' and inserting the following:

''(1) AUTHORITY OF COMMISSION.—

''(A) IN GENERAL.—In any proceeding'';

(2) by redesignating subparagraphs (A) through (D) of such paragraph as clauses (i) through (iv), respectively and moving such redesignated clauses and the matter following such subparagraphs 2 ems to the right; and

(3) by adding at the end of such paragraph the following new subparagraph:

''(B) CEASE-AND-DESIST PROCEEDINGS.—In any proceeding instituted pursuant to subsection (k) against any person, the Commission may impose a civil penalty if it finds, on the record after notice and opportunity for hearing, that such person—

''(i) is violating or has violated any provision of this title, or any rule or regulation thereunder; or

''(ii) is or was a cause of the violation of any provision of this title, or any rule or regulation thereunder.''.

SEC. 3002. FORMERLY ASSOCIATED PERSONS.

(a) MEMBER OR EMPLOYEE OF THE MUNICIPAL SECURITIES RULEMAKING BOARD.—Section 15B(c)(8) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(c)(8)) is amended by striking ''any member or employee'' and inserting ''any person who is, or at the time of the alleged misconduct was, a member or employee''.

(b) PERSON ASSOCIATED WITH A GOVERNMENT SECURITIES BROKER OR DEALER.—Section 15C of the Securities Exchange Act of 1934 (15 U.S.C. 78o–5) is amended—

(1) in subsection (c)(1)(C), by striking ''or seeking to become associated,'' and inserting ''seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated'';

(2) in subsection (c)(2)(A), by inserting '', seeking to become associated, or, at the time of the alleged misconduct, associated or

seeking to become associated'' after ''any person associated''; and

(3) in subsection (c)(2)(B), by inserting '', seeking to become associated, or, at the time of the alleged misconduct, associated or seeking to become associated'' after ''any person associated''.

(c) PERSON ASSOCIATED WITH A MEMBER OF A NATIONAL SECURITIES EXCHANGE OR REGISTERED SECURITIES ASSOCIATION.—Section 21(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) is amended by inserting '', or, as to any act or practice, or omission to act, while associated with a member, formerly associated'' after ''member or a person associated''.

(d) PARTICIPANT OF A REGISTERED CLEARING AGENCY.—Section 21(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) is amended by inserting ''or, as to any act or practice, or omission to act, while a participant, was a participant,'' after ''in which such person is a participant,''.

(e) OFFICER OR DIRECTOR OF A SELF-REGULATORY ORGANIZATION.—Section 19(h)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(h)(4)) is amended—

(1) by striking ''any officer or director'' and inserting ''any person who is, or at the time of the alleged misconduct was, an officer or director''; and

(2) by striking ''such officer or director'' and inserting ''such person''.

(f) OFFICER OR DIRECTOR OF AN INVESTMENT COMPANY.—Section 36(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–35(a)) is amended—

(1) by striking ''a person serving or acting'' and inserting ''a person who is, or at the time of the alleged misconduct was, serving or acting''; and

(2) by striking ''such person so serves or acts'' and inserting ''such person so serves or acts, or at the time of the alleged misconduct, so served or acted''.

(g) PERSON ASSOCIATED WITH A PUBLIC ACCOUNTING FIRM.—

(1) SARBANES-OXLEY ACT OF 2002 AMENDMENT.—Section 2(a)(9) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(9)) is amended by adding at the end the following new subparagraph:

''(C) INVESTIGATIVE AND ENFORCEMENT AUTHORITY.—For purposes of the provisions of sections 3(c), 101(c), 105, and 107(c) and Board or Commission rules thereunder, except to the extent specifically excepted by such rules, the terms defined in subparagraph (A) shall include any person associated, seeking to become associated, or formerly associated with a public accounting firm, except—

''(i) the authority to conduct an investigation of such person under section 105(b) shall apply only with respect to any act or practice, or omission to act, while such person was associated or seeking to become associated with a registered public accounting firm; and

''(ii) the authority to commence a proceeding under section 105(c)(1), or impose disciplinary sanctions under section 105(c)(4), against such person shall apply only on—

''(I) the basis of conduct occurring while such person was associated or seeking to become associated with a registered public accounting firm; or

''(II) non-cooperation as described in section 105(b)(3) with respect to a demand in a Board investigation for testimony, documents, or other information relating to a period when such person was associated or seeking to become associated with a registered public accounting firm.''.

(2) SECURITIES EXCHANGE ACT OF 1934 AMENDMENT.—Section 21(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(a)(1)) is amended by striking ''or a person associated with such a firm'' and inserting '', a person associated with such a firm, or, as to any act, practice, or omission to act while associated with such firm, a person formerly associated with such a firm''.

(h) SUPERVISORY PERSONNEL OF AN AUDIT FIRM.—Section 105(c)(6) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7215(c)(6)) is amended—

(1) in subparagraph (A), by striking ''the supervisory personnel'' and inserting ''any person who is, or at the time of the alleged failure reasonably to supervise was, a supervisory person''; and

(2) in subparagraph (B)—

(A) by striking ''No associated person'' and inserting ''No current or former supervisory person''; and

(B) by striking ''any other person'' and inserting ''any associated person''.

(i) MEMBER OF THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD.—Section 107(d)(3) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7217(d)(3)) is amended by striking ''any member'' and inserting ''any person who is, or at the time of the alleged misconduct was, a member''.

SEC. 3003. COLLATERAL BARS.

(a) SECTION 15(b)(6)(A) OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 15(b)(6)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)(6)(A)) is amended by striking ''12 months, or bar such person from being associated with a broker or dealer,'' and inserting ''12 months, or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, or transfer agent,''.

(b) SECTION 15B(c)(4) OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 15B(c)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–4(c)(4)) is amended by striking ''twelve months or bar any such person from being associated with a municipal securities dealer,'' and inserting ''twelve months or bar any such person from being associated with a broker, dealer, investment adviser, municipal securities dealer, or transfer agent,''.

(c) SECTION 17A(c)(4)(C) OF THE SECURITIES EXCHANGE ACT OF 1934.—Section 17A(c)(4)(C) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(c)(4)(C)) is amended by striking ''twelve months or bar any such person from being associated with the transfer agent,'' and inserting ''twelve months or bar any such person from being associated with any transfer agent, broker, dealer, investment adviser, or municipal securities dealer,''.

(d) SECTION 203(f) OF THE INVESTMENT ADVISERS ACT OF 1940.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(f)) is amended by striking ''twelve months or bar any such person from being associated with an investment adviser,'' and inserting ''twelve months or bar any such person from being associated with an investment adviser, broker, dealer, municipal securities dealer, or transfer agent,''.

SEC. 3004. UNLAWFUL MARGIN LENDING.

Section 7(c)(1)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78g(c)(1)(A)) is amended by striking ''; and'' and inserting ''; or''.

SEC. 3005. NATIONWIDE SERVICE OF PROCESS.

(a) SECURITIES ACT OF 1933.—Section 22(a) of the Securities Act of 1933 (15 U.S.C. 77v(a)) is amended by inserting after the second sentence the following: ''In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.''.

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 27 of the Securities Exchange Act of 1934 (15 U.S.C. 78aa) is amended by inserting after the third sentence the following: ''In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 44 of the Investment Company Act of 1940 (15 U.S.C. 80a–43) is amended by inserting after the fourth sentence the following: ''In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.''.

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 214 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–14) is amended by inserting after the third sentence the following: ''In any civil action instituted by the Commission under this title in a United States district court for any judicial district, subpoenas issued to compel the attendance of witnesses or the production of documents or tangible things (or both) at any hearing or trial may be served at any place within the United States. Rule 45(c)(3)(A)(ii) of the Federal Rules of Civil Procedure does not apply to a subpoena so issued.''.

SEC. 3006. REAUTHORIZATION OF THE FINANCIAL CRIMES ENFORCEMENT NETWORK.

(a) FINDINGS.—

(1) The Congress finds as follows:

(A) The work of the Financial Crimes Enforcement Network (hereinafter in this section referred to as ''FinCEN'') is essential to safeguard the United States financial system and its international affiliates from the abuses of financial crime, including terrorist financing, weapons of mass destruction proliferation, and money laundering.

(B) All avenues of financial intermediation are vulnerable to abuse by illicit actors, and FinCEN exercises the authorities of the Bank Secrecy Act over a broad range of financial institutions.

(2) The Congress further finds and recognizes the recent establishment by FinCEN of an International Programs Division to expand and enhance global financial intelligence sharing initiatives aimed at combating transnational crime threats facing United States financial markets, and takes note of FinCEN's efforts to collaborate with foreign financial intelligence unit partners on analytical projects to identify and address emerging threats and vulnerabilities.

(3) The Congress further finds and recognizes the role of FinCEN in discovering and investigating widespread fraud in the mortgage market and elsewhere in the financial services industry. Alongside an effective licensing and registration system for all mortgage originators, a vigilant FinCEN is critical to the recovery of our housing markets and consumer confidence in both the home buying process and the financial services industry as a whole.

(b) REAUTHORIZATION.—Section 310(d)(1) of title 31, United States Code, is amended by striking ''such sums as may be necessary for fiscal years 2002, 2003, 2004, and 2005'' and inserting ''not more than $105,500,000 for fiscal year 2010, and such sums as may be necessary for fiscal years 2011, 2012, 2013, and 2014''.

(c) ADDITIONAL FINANCIAL FRAUD AUTHORIZATION OF APPROPRIATIONS.—In addition to such other amounts otherwise made available or appropriated to FinCEN, there are authorized to be appropriated to FinCEN $15,000,000 to be used specifically for efforts to detect financial fraud. Such sums are authorized to remain available until expended.

SEC. 3007. FAIR FUND IMPROVEMENTS.

(a) AMENDMENT.—Subsection (a) of section 308 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7246(a)) is amended to read as follows:

''(a) CIVIL PENALTIES TO BE USED FOR THE RELIEF OF VICTIMS.—If in any judicial or administrative action brought by the Commission under the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), the Commission obtains a civil penalty against any person for a violation of such laws, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to and become part of a disgorgement fund or other fund established for the benefit of the victims of such violation.''.

(b) CONFORMING AMENDMENTS.—Section 308 of such Act is amended—

(1) in subsection (b)—

(A) by striking ''for a disgorgement fund described in subsection (a)'' and inserting ''for a disgorgement fund or other fund described in subsection (a)''; and

(B) by striking ''in the disgorgement fund'' and inserting ''in such fund''; and

(2) by striking subsection (e).

TITLE IV—OVER-THE-COUNTER DERIVATIVES MARKETS

SECTION 4001. SHORT TITLE.

This title may be cited as the ''Over-the-Counter Derivatives Markets Act of 2009''.

Subtitle A—Amendments to the Commodity Exchange Act

SEC. 4100. DEFINITIONS.

Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended by adding at the end the following:

''(35) SWAP.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'swap' means any agreement, contract, or transaction that—

''(i) is a put, call, cap, floor, collar, or similar option of any kind for the purchase or sale of, or based on the value of, one or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind;

''(ii) provides for any purchase, sale, payment, or delivery (other than a dividend on an equity security) that is dependent on the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence;

''(iii) provides on an executory basis for the exchange, on a fixed or contingent basis, of one or more payments based on the value or level of one or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind, or any interest therein or based on the value thereof, and that transfers, as between the parties to the transaction, in whole or in part, the financial risk associated with a future change in any such value or level without also conveying a current or future direct or indirect ownership interest in an asset (including any enterprise or investment pool) or liability that incorporates the financial risk so transferred, including any agreement, contract, or transaction commonly known as an interest rate swap, a rate floor, rate cap, rate collar, cross-currency rate swap, basis swap, currency swap, total return swap, equity index swap, equity swap, debt index swap, debt swap, credit spread, credit default swap, credit swap, weather swap, energy swap, metal swap, agricultural swap, emissions swap, or commodity swap;

''(iv) is an agreement, contract, or transaction that is, or in the future becomes, commonly known to the trade as a swap; or

''(v) is any combination or permutation of, or option on, any agreement, contract, or transaction described in any of clauses (i) through (iv).

''(B) EXCLUSIONS.—The term 'swap' does not include:

''(i) any contract of sale of a commodity for future delivery or security futures product traded on or subject to the rules of any board of trade designated as a contract market under section 5 or 5f;

''(ii) any sale of a nonfinancial commodity for deferred shipment or delivery, so long as such transaction is physically settled;

''(iii) any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities, including any interest therein or based on the value thereof, that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

''(iv) any put, call, straddle, option, or privilege relating to foreign currency entered into on a national securities exchange registered pursuant to section 6(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(a));

''(v) any agreement, contract, or transaction providing for the purchase or sale of one or more securities on a fixed basis that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

''(vi) any agreement, contract, or transaction providing for the purchase or sale of one or more securities on a contingent basis that is subject to the Securities Act of 1933 (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless such agreement, contract, or transaction predicates such purchase or sale on the occurrence of a bona fide contingency that might reasonably be expected to affect or be affected by the creditworthiness of a party other than a party to the agreement, contract, or transaction;

''(vii) any note, bond, or evidence of indebtedness that is a security as defined in section 2(a)(1) of the Securities Act of 1933 (15 U.S.C. 77b(a)(1));

''(viii) any agreement, contract, or transaction that is—

''(I) based on a security; and

''(II) entered into directly or through an underwriter (as defined in section 2(a)(11) of the Securities Act of 1933) (15 U.S.C. 77b(a)(11)) by the issuer of such security for the purposes of raising capital, unless such agreement, contract, or transaction is entered into to manage a risk associated with capital raising;

''(ix) any foreign exchange swap;

''(x) any foreign exchange forward;

''(xi) any agreement, contract, or transaction a counterparty of which is a Federal Reserve bank or the United States Government, or an agency of the United States Government that is expressly backed by the full faith and credit of the United States; and

''(xii) any security-based swap, other than a security-based swap as described in paragraph (36](C).

''(C) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS.—The term 'swap' shall be construed to include a master agreement that provides for an agreement, contract, or transaction that is a swap pursuant to subparagraph (A), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a swap pursuant to subparagraph (A), except that the master agreement shall be considered to be a swap only with respect to each agreement, contract, or transaction under the master agreement that is a swap pursuant to subparagraph (A).

''(36) SECURITY-BASED SWAP.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'security-based swap' means any agreement, contract, or transaction that would be a swap under paragraph (35) (without regard to paragraph (35)(B)(xii)), and that—

''(i) is based on an index that is a narrow-based security index, including any interest therein or based on the value thereof;

''(ii) is based on a single security or loan, including any interest therein or based on the value thereof; or

''(iii) is based on the occurrence, non-occurrence, or extent of the occurrence of an event relating to a single issuer of a security or the issuers of securities in a narrow-based security index, provided that such event must directly affect the financial statements, financial condition, or financial obligations of the issuer.

''(B) EXCLUSION.—The term 'security-based swap' does not include any agreement, contract, or transaction that meets the definition of security-based swap only because it references or is based upon a government security.

''(C) MIXED SWAP.—The term 'security-based swap' includes any agreement, contract, or transaction that is as described in subparagraph (A) and also is based on the value of one or more interest or other rates, currencies, commodities, instruments of indebtedness, indices, quantitative measures, other financial or economic interest or property of any kind (other than a single security or a narrow-based security index), or the occurrence, non-occurrence, or the extent of the occurrence of an event or contingency associated with a potential financial, economic, or commercial consequence (other than an event described in subparagraph (A)(iii)).

''(D) RULE OF CONSTRUCTION REGARDING MASTER AGREEMENTS.—The term 'security-based swap' shall be construed to include a master agreement that provides for an agreement, contract, or transaction that is a security-based swap pursuant to subparagraph (A), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement, contract, or transaction that is not a security-based swap pursuant to subparagraph (A), except that the master agreement shall be considered to be a security-based swap only with respect to each agreement, contract, or transaction under the master agreement that is a security-based swap pursuant to subparagraph (A).

''(37) SWAP DEALER.—

''(A) IN GENERAL.—The term 'swap dealer' means any person engaged in the business of buying and selling swaps for such person's own account, through a broker or otherwise, that is regulated by a Prudential Regulator.

''(B) EXCEPTION.—The term 'swap dealer' does not include a person that buys or sells swaps for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

''(38) SECURITY-BASED SWAP DEALER.—

''(A) IN GENERAL.—The term 'security-based swap dealer' means any person engaged in the business of buying and selling security-based swaps for such person's own account, through a broker or otherwise, that is regulated by a Prudential Regulator.

''(B) EXCEPTION.—The term 'security-based swap dealer' does not include a person that buys or sells security-based swaps for such person's own account, either individually or in a fiduciary capacity, but not as a part of a regular business.

''(39) MAJOR SWAP PARTICIPANT.—

''(A) IN GENERAL.—The term 'major swap participant' means any person who is not a swap dealer, who maintains a substantial net position in outstanding swaps, excluding positions held primarily for hedging (including balance sheet hedging) or risk management purposes, and who is regulated by a Prudential Regulator. A person may be designated as a major swap participant for 1 or more individual types of swaps.

''(B) DEFINITION OF 'SUBSTANTIAL NET POSITION'.— The Commission and the Securities and Exchange Commission shall jointly define by rule or regulation the term 'substantial net position' at a threshold that the regulators determine prudent for the effective monitoring, management and oversight of the financial system.

''(40) MAJOR SECURITY-BASED SWAP PARTICIPANT.—

''(A) IN GENERAL.—The term 'major security-based swap participant' means any person who is not a security-based swap dealer, who maintains a substantial net position in outstanding security-based swaps, excluding positions held primarily for commercial hedging (including balance sheet hedging) or financial risk management purposes, and who is regulated by a Prudential Regulator. A person may be designated as a major security-based swap participant for 1 or more individual types of security-based swaps.

''(B) DEFINITION OF 'SUBSTANTIAL NET POSITION'.—The Commission and the Securities and Exchange Commission shall jointly define by rule or regulation the term 'substantial net position' at a threshold that the regulators determine prudent for the effective monitoring, management and oversight of the financial system.

''(41) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

''(42) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

''(43) PRUDENTIAL REGULATOR.—The term 'Prudential Regulator' means—

''(A) the Board, in the case of a swap dealer, major swap participant, security-based swap dealer or major security-based swap participant that is—

''(i) a State-chartered bank that is a member of the Federal Reserve System;

''(ii) a State-chartered branch or agency of a foreign bank; or

''(iii) a bank holding company (as defined in section 2 of the Bank Holding Company Act of 1956);

''(B) the Office of the Comptroller of the Currency, in the case of a swap dealer, major swap participant, security-based swap dealer or major security-based swap participant that is—

''(i) a national bank; or

''(ii) a federally chartered branch or agency of a foreign bank;

''(C) the Federal Deposit Insurance Corporation, in the case of a swap dealer, major swap participant, security-based swap dealer or major security-based swap participant that is a State-chartered bank that is not a member of the Federal Reserve System; or

''(D) the Office of Thrift Supervision, in the case of a savings association (as defined in section 2 of the Home Owners' Loan Act) or a savings and loan holding company (as defined in section 10 of such Act).

''(44) SWAP REPOSITORY.—The term 'swap repository' means an entity that collects and maintains the records of the terms and conditions of swaps or security-based swaps entered into by third parties.''.

SEC. 4101. SWAP REPOSITORIES.

(a) SWAP REPOSITORIES.—The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 20 the following:

''SEC. 21. SWAP REPOSITORIES.

''(a) REQUIRED REPORTING.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—Any swap that is not accepted for clearing by a derivatives clearing organization shall be reported to either a swap repository registered pursuant to subsection (b) or, if there is no repository that would accept the swap, to the Commission in accordance with section 4r within such time period as the Commission may by rule prescribe.

''(B) AUTHORITY OF SWAP DEALER TO REPORT.—Counterparties to a swap may agree as to which counterparty will report such swap as required by subparagraph (A). In any swap where only one counterparty is a swap dealer, the swap dealer shall report the swap.

''(2) TRANSITION RULES.—Rules adopted by the Commission under this section shall provide for the reporting of data, as follows:

''(A) Swaps that were entered into before the date of enactment of the Over-the-Counter Derivatives Markets Act of 2009 shall be reported to a registered swap repository or the Commission no later than 270 days after the effective date of such Act.

''(B) Swaps that were entered into on or after the date of enactment of the Over-the-Counter Derivatives Markets Act of 2009 shall be reported to a registered swap repository or the Commission no later than the later of—

''(i) 180 days after the effective date of such Act; or

''(ii) such other time after entering into the swap as the Commission may prescribe by rule or regulation.

''(b) SWAP REPOSITORIES.—

''(1) REGISTRATION REQUIREMENT.—

''(A) IN GENERAL.—It shall be unlawful for a swap repository, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a swap repository.

''(B) INSPECTION AND EXAMINATION.—Registered swap repositories shall be subject to inspection and examination by any representatives of the Commission.

''(2) STANDARD SETTING.—

''(A) DATA IDENTIFICATION.—The Commission shall prescribe standards that specify the data elements for each swap that shall be collected and maintained by each swap repository.

''(B) DATA COLLECTION AND MAINTENANCE.—The Commission shall prescribe data collection and data maintenance standards for swap repositories.

''(C) COMPARABILITY.—The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on derivatives clearing organizations that clear swaps.

''(3) DUTIES.—A swap repository shall—

''(A) accept data prescribed by the Commission for each swap under paragraph (2);

''(B) maintain such data in such form and manner and for such period as may be required by the Commission;

''(C) provide to the Commission, or its designee, such information as is required by, and in a form and at a frequency to be determined by, the Commission, in order to comply with the public reporting requirements contained in section 8(j); and

''(D) make available, on a confidential basis, all data obtained by the swap repository, including individual counterparty trade and position data, to the Commission, the appropriate Federal banking agencies, the Commodity Futures Trading Commission, the Financial Services Oversight Council, and the Department of Justice or to other persons the Commission deems appropriate, including foreign financial supervisors (including foreign futures authorities), foreign central banks, and foreign ministries.

''(4) REQUIRED REGISTRATION FOR SWAP REPOSITORIES.—Any person that is required to be registered as a swap repository under this subsection shall register with the Commission, regardless of whether that person also is registered with the Securities and Exchange Commission as a security-based swap repository.

''(5) HARMONIZATION OF RULES.—Not later than 270 days after the date of enactment of the Over-the-Counter Derivatives Markets Act of 2009, the Commission and the Securities and Exchange Commission shall jointly adopt uniform rules governing persons that are registered under this section and persons that are registered as security-based swap repositories under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), including uniform rules that specify the data elements that shall be collected and maintained by each repository.

''(6) EXEMPTIONS.—The Commission may exempt, conditionally or unconditionally, a swap repository from the requirements of this section if the Commission finds that such swap repository is subject to comparable, comprehensive supervision or regulation on a consolidated basis by the Securities and Exchange Commission, a Prudential Regulator or the appropriate governmental authorities in the organization's home country, or as necessary or appropriate in the public interest and consistent with the purposes of this Act.''.

(b) REPORTING AND RECORDKEEPING.—The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4q the following:

''SEC. 4r. REPORTING AND RECORDKEEPING FOR CERTAIN SWAPS.

''(a) IN GENERAL.—Any person who enters into a swap that is not accepted for clearing by a derivatives clearing organization and is not reported to a swap repository registered pursuant to section 21 shall meet the requirements in subsection (b).

''(b) REPORTS.—Any person described in subsection (a) shall—

''(1) make such reports in such form and manner and for such period as the Commission shall prescribe by rule or regulation regarding the swaps held by the person; and

''(2) keep books and records pertaining to the security-based swaps held by the person in such form and manner and for such period as may be required by the Commission, which books and records shall be open to inspection by any representative of the Commission, an appropriate Federal banking agency, the Securities and Exchange Commission, the Financial Services Oversight Council, and the Department of Justice.

''(c) IDENTICAL DATA.—In adopting rules under this section, the Commission shall require persons described in subsection (a) to report the same or more comprehensive data than the Commission requires repositories to collect.''.

(c) PUBLIC REPORTING OF AGGREGATE SWAP DATA.—Section 8 of such Act (7 U.S.C. 12) is amended by adding at the end the following:

''(j) PUBLIC REPORTING OF AGGREGATE SWAP DATA.—

''(1) IN GENERAL.—The Commission, or a person designated by the Commission pursuant to paragraph (2), shall make available to

the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on swap trading volumes and positions from the sources set forth in paragraph (3).

''(2) DESIGNEE OF THE COMMISSION.—The Commission may designate a derivatives clearing organization or a swap repository to carry out the public reporting described in paragraph (1).

''(3) SOURCES OF INFORMATION.—The sources of the information to be publicly reported as described in paragraph (1) are—

''(A) derivatives clearing organizations;

''(B) swap repositories pursuant to section 21(c)(3); and

''(C) reports received by the Commission pursuant to section 4r.''.

SEC. 4102. MARGIN FOR SWAPS BETWEEN SWAPS DEALERS AND MAJOR SWAP PARTICIPANTS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4r (as added by section 4101(b) of this title) the following:

''SEC. 4s. MARGIN FOR SWAPS BETWEEN CERTAIN SWAPS DEALERS AND CERTAIN MAJOR SWAP PARTICIPANTS.

''Each Prudential Regulator shall impose both initial and variation margin requirements on all swaps between swap dealers and major swap participants subject to regulation by the Regulator, that are not cleared by a derivatives clearing organization.''.

SEC. 4103. SEGREGATION OF ASSETS HELD AS COLLATERAL IN SWAP TRANSACTIONS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended by inserting after section 4s (as added by section 4102 of this title) the following:

''SEC. 4t. SEGREGATION OF ASSETS HELD AS COLLATERAL IN SWAP TRANSACTIONS.

''(a) CLEARED SWAPS.—A swap dealer, futures commission merchant, or derivatives clearing organization by or through which funds or other property are held as margin or collateral to secure the obligations of a counterparty under a swap to be cleared by or through a derivatives clearing organization shall segregate, maintain, and use the funds or other property for the benefit of the counterparty, in accordance with such rules and relations as the Commission or Prudential Regulator shall prescribe. Any such funds or other property shall be treated as customer property under this Act.

''(b) OVER-THE-COUNTER SWAPS.—At the request of a swap counterparty who provides funds or other property to a swap dealer as margin or collateral to secure the obligations of the counterparty under a swap entered into using the mails or any other means or instrumentalities of interstate commerce between the counterparty and the swap dealer that is not submitted for clearing to a derivatives clearing organization, the swap dealer shall segregate the funds or other property for the benefit of the counterparty, and maintain the funds or other property in an account which is carried by a third-party custodian and designated as a segregated account for the counterparty, in accordance with such rules and regulations as the Commission or Prudential Regulator may prescribe. Any such funds and property may, with the agreement of the customer, be commingled with the funds and property of other swap counterparties and customers and shall be eligible for treatment as customer property under this Act. This subsection shall not be interpreted to preclude commercial arrangements regarding the investment of the segregated funds or other property and the related allocation of gains and losses resulting from any such investment or regarding the allocation of the costs of segregation.

''(c) MARK-TO-MARKET MARGIN.—Nothing in this section shall be construed to obligate any person to segregate variation or mark-to-market margin.''.

Subtitle B—Amendments to the Securities Exchange Act of 1934

SEC. 4201. DEFINITIONS.

Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following:

''(65) APPROPRIATE FEDERAL BANKING AGENCY.—The term 'appropriate Federal banking agency' has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

''(66) MAJOR SWAP PARTICIPANT.—The term 'major swap participant' has the same meaning as in section 1a(40) of the Commodity Exchange Act (7 U.S.C. 1a(40)).

''(67) MAJOR SECURITY-BASED SWAP PARTICIPANT.—The term 'major security-based swap participant' has the same meaning as in section 1a(41) of the Commodity Exchange Act (7 U.S.C. 1a(41)).

''(68) PRUDENTIAL REGULATOR.—The term 'Prudential Regulator' has the same meaning as in section 1a(43) of the Commodity Exchange Act (7 U.S.C. 1a(43)).

''(69) SWAP.—The term 'swap' has the same meaning as in section 1a(35) of the Commodity Exchange Act (7 U.S.C. 1a(35)).

''(70) SWAP DEALER.—The term 'swap dealer' has the same meaning as in section 1a(39) of the Commodity Exchange Act (7 U.S.C. 1a(39)).

''(71) SECURITY-BASED SWAP.—The term 'security-based swap' has the same meaning as in section 1a(38) of the Commodity Exchange Act (7 U.S.C. 1a(38)).

''(72) SECURITY-BASED SWAP DEALER.—The term 'security-based swap dealer' has the same meaning as in section 1a(44) of the Commodity Exchange Act (7 U.S.C. 1a(44)).''.

SEC. 4202. SWAP REPOSITORIES.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a, et seq.) is amended by adding the following section after section 3A:

''SEC. 3B. SWAP REPOSITORIES.

''(a) REQUIRED REPORTING.—

''(1) IN GENERAL.—

''(A) IN GENERAL.—Any security-based swap that is not accepted for clearing by any clearing agency shall be reported to either a security-based swap repository registered pursuant to subsection (b) or, if there is no repository that would accept the security-based swap, to the Commission in accordance with section 13A within such time period as the Commission may by rule prescribe.

''(B) AUTHORITY OF SWAP DEALER TO REPORT.—Counterparties to a security-based swap may agree as to which counterparty will report such swap as required by subparagraph (A). In any security-based swap where only one counterparty is a swap dealer, the swap dealer shall report the swap.

''(2) TRANSITION RULES.—Rules adopted by the Commission under this section shall provide for the reporting of data, as follows:

''(A) Security-based swaps that were entered into before the date of enactment of the Over-the-Counter Derivatives Markets Act of 2009 shall be reported to a registered security-based swap repository or the Commission no later than 270 days after the effective date of such Act.

''(B) Security-based swaps that were entered into on or after the date of enactment of the Over-the-Counter Derivatives Markets Act of 2009 shall be reported to a registered security-based swap repository or the Commission no later than the later of—

''(i) 180 days after the effective date of such Act; or

''(ii) such other time after entering into the swap as the Commission may prescribe by rule or regulation.

''(b) SECURITY-BASED SWAP REPOSITORIES.—

''(1) REGISTRATION REQUIREMENT.—

''(A) IN GENERAL.—It shall be unlawful for a security-based swap repository, unless registered with the Commission, directly or indirectly to make use of the mails or any means or instrumentality of interstate commerce to perform the functions of a security-based swap repository.

''(B) INSPECTION AND EXAMINATION.—Registered security-based swap repositories shall be subject to inspection and examination by any representatives of the Commission.

''(2) STANDARD SETTING.—

''(A) DATA IDENTIFICATION.—The Commission shall prescribe standards that specify the data elements for each security-based swap that shall be collected and maintained by each security-based swap repository.

''(B) DATA COLLECTION AND MAINTENANCE.—The Commission shall prescribe data collection and data maintenance standards for security-based swap repositories.

''(C) COMPARABILITY.—The standards prescribed by the Commission under this subsection shall be comparable to the data standards imposed by the Commission on clearing agencies that clear security-based swaps.

''(3) DUTIES.—A security-based swap repository shall—

''(A) accept data prescribed by the Commission for each security-based swap under this paragraph (2);

''(B) maintain such data in such form and manner and for such period as may be required by the Commission;

''(C) provide to the Commission, or its designee, such information as is required by, and in a form and at a frequency to be determined by, the Commission, in order to comply with the public reporting requirements contained in section 13(m); and

''(D) make available, on a confidential basis, all data obtained by the security-based swap repository, including individual counterparty trade and position data, to the Commission, the appropriate Federal banking agencies, the Commodity Futures Trading Commission, the Financial Services Oversight Council, and the Department of Justice or to other persons the Commission deems appropriate, including foreign financial supervisors (including foreign futures authorities), foreign central banks, and foreign ministries.

''(4) REQUIRED REGISTRATION FOR SECURITY-BASED SWAP REPOSITORIES.—Any person that is required to be registered as a securities-based swap repository under this subsection shall register with the Commission, regardless of whether that person also is registered with the Commodity Futures Trading Commission as a swap repository.

''(5) HARMONIZATION OF RULES.—Not later than 270 days after the date of enactment of the Over-the-Counter Derivatives Markets Act of 2009, the Commission and the Commodity Futures Trading Commission shall jointly adopt uniform rules governing persons that are registered under this section and persons that are registered as swap repositories under the Commodity Exchange Act (7 U.S.C. 1, et seq.), including uniform rules that specify the data elements that shall be collected and maintained by each repository.

''(6) EXEMPTIONS.—The Commission may exempt, conditionally or unconditionally, a security-based swap repository from the requirements of this section if the Commission

finds that such security-based swap repository is subject to comparable, comprehensive supervision or regulation on a consolidated basis by the Commodity Futures Trading Commission, a Prudential Regulator or the appropriate governmental authorities in the organization's home country, or as necessary or appropriate in the public interest and consistent with the purposes of this Act.''.

(b) REPORTING AND RECORDKEEPING.—The Securities Exchange Act of 1934 (15 U.S.C. 78a, et seq.) is amended by inserting after section 13 the following section:

''SEC. 13A. REPORTING AND RECORDKEEPING FOR CERTAIN SECURITY-BASED SWAPS.

''(a) IN GENERAL.—Any person who enters into a security-based swap that is not accepted for clearing by any clearing agency and is not reported to a security-based swap repository registered pursuant to section 3B(b) shall meet the requirements in subsection (b).

''(b) REPORTS.—Any person described in subsection (a) shall—

''(1) make such reports in such form and manner and for such period as the Commission shall prescribe by rule or regulation regarding the security-based swaps held by the person; and

''(2) keep books and records pertaining to the security-based swaps held by the person in such form and manner and for such period as may be required by the Commission, which books and records shall be open to inspection by any representative of the Commission, an appropriate Federal banking agency, the Commodity Futures Trading Commission, the Financial Services Oversight Council, and the Department of Justice.

''(c) IDENTICAL DATA.—In adopting rules under this section, the Commission shall require persons described in subsection (a) to report the same or more comprehensive data than the Commission requires security-based swap repositories to collect.''.

(c) PUBLIC REPORTING AND REPOSITORIES FOR SECURITY-BASED SWAP AGREEMENTS.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

''(m) PUBLIC REPORTING OF AGGREGATE SECURITY-BASED SWAP DATA.—

''(1) IN GENERAL.—The Commission, or a person designated by the Commission pursuant to paragraph (2), shall make available to the public, in a manner that does not disclose the business transactions and market positions of any person, aggregate data on security-based swap trading volumes and positions from the sources set forth in paragraph (3).

''(2) DESIGNEE OF THE COMMISSION.—The Commission may designate a clearing agency or a security-based swap repository to carry out the public reporting described in paragraph (1).

''(3) SOURCES OF INFORMATION.—The sources of the information to be publicly reported as described in paragraph (1) are—

''(A) clearing agencies;

''(B) security-based swap repositories registered pursuant to section 3B(b); and

''(C) reports received by the Commission pursuant to section 13A.''.

SEC. 4203. MARGIN REQUIREMENTS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a, et seq.) is amended by adding the following section after section 3B:

''SEC. 3C. MARGIN REQUIREMENTS FOR SECURITY-BASED SWAP DEALERS AND MAJOR SECURITY-BASED SWAP PARTICIPANTS.

''Each Prudential Regulator shall impose both initial and variation margin requirements on all security-based swaps between security-based swap dealers and major security-based swap participants subject to regulation by the Regulator, that are not cleared by a clearing agency.''.

SEC. 4204. SEGREGATION OF ASSETS HELD AS COLLATERAL IN SWAP TRANSACTIONS.

The Securities Exchange Act of 1934 (15 U.S.C. 78a, et seq.) is further amended by adding after section 3C (as added by section 4203) the following:

''SEC. 3D. SEGREGATION OF ASSETS HELD AS COLLATERAL IN SWAP TRANSACTIONS.

''(a) CLEARED SWAPS.—A security-based swap dealer or clearing agency by or through which funds or other property are held as margin or collateral to secure the obligations of a counterparty under a security-based swap to be cleared by or through a derivatives clearing agency shall segregate, maintain, and use the funds or other property for the benefit of the counterparty, in accordance with such rules and regulations as the Commission or Prudential Regulator shall prescribe. Any such funds or other property shall be treated as customer property under this Act.

''(b) OVER-THE-COUNTER SWAPS.—At the request of a counterparty to a security-based swap who provides funds or other property to a swap dealer as margin or collateral to secure the obligations of the counterparty under a security-based swap entered into using the mails or any other means or instrumentalities of interstate commerce between the counterparty and the swap dealer that is not submitted for clearing to a derivatives clearing agency, the swap dealer shall segregate the funds or other property for the benefit of the counterparty, and maintain the funds or other property in an account which is carried by a third-party custodian and designated as a segregated account for the counterparty, in accordance with such rules and regulations as the Commission or Prudential Regulator may prescribe. This subsection shall not be interpreted to preclude commercial arrangements regarding the investment of the segregated funds or other property and the related allocation of gains and losses resulting from any such investment or regarding the allocation of the costs of segregation.

''(c) MARK-TO-MARKET MARGIN.—Nothing in this section shall be construed to obligate any person to segregate variation or mark-to-market margin.''.

Subtitle C—Common Provisions

SEC. 4301. REPORT TO THE CONGRESS.

Within 1 year after the date of the enactment of this title, and not less frequently than annually thereafter, the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the Prudential Regulators shall review data from swap repositories, security-based swap repositories, derivative clearing organizations, and clearing agencies, and if the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the Prudential Regulators jointly find that the activities of swaps dealers, securities-based swaps dealers, major swap participants, or major security-based swap participants not subject to regulation by the Commodity Futures Trading Commission, the Securities and Exchange Commission, or a Prudential Regulator, in relation to swaps or security-based swaps that are not submitted to a derivatives clearing organization or clearing agency for clearing, have become so substantial or imprudent as to potentially threaten the stability of financial markets or the economy, the Commodity Futures Trading Commission, the Securities and Exchange Commission, and the Prudential Regulators shall jointly submit to the Congress a report on the situation, including recommendations as to whether the activities should be subject to further regulation.

SEC. 4302. CAPITAL REQUIREMENTS.

Each Prudential Regulator shall take into account the swaps and security-based swaps activities of the entities subject to regulation by the Regulator in establishing capital requirements for the entities.

SEC. 4303. CENTRALIZED CLEARING.

(a) IN GENERAL.—The Board, in consultation and coordination with the Securities and Exchange Commission and the Commodity Futures Trading Commission, shall implement policies and procedures designed to increase the use of central counterparties for clearing of over-the-counter swaps transactions by swap dealers, security-based swap dealers, major swap participants, and major security-based swap participants, with the goal of significantly reducing the risk profile of the market in which the transactions occur.

(b) FIRM TARGETS.—

(1) IN GENERAL.—Pursuant to subsection (a), the Board shall establish the following firm goals for swap dealers, security-based swap dealers, major swap participants, and major security-based swap participants, with respect to the clearing of certain swaps:

(A) INTEREST RATE SWAPS.—In the case of interest rate swaps, each swap dealer, security-based swap dealer, major swap participant, and major security-based swap participant shall commit to a goal, beginning December 2009, of submitting for clearing to a derivatives clearing organization or clearing agency—

(i) 90 percent of new eligible trades (calculated on a notional basis);

(ii) 70 percent of new eligible trades (calculated on a weighted average notional basis); and

(iii) 60 percent of historical eligible trades (calculated on a weighted average notional basis).

(B) CREDIT DEFAULT SWAPS.—In the case of credit default swaps, each swap dealer, security-based swap dealer, major swap participant, and major security-based swap participant shall commit to a goal, beginning December 2009, of submitting for clearing to a derivatives clearing organization or clearing agency—

(i) 95 percent of new eligible trades (calculated on a notional basis); and

(ii) 80 percent of all eligible trades (calculated on a weighted average notional basis).

(2) DEFINITIONS.—In paragraph (1):

(A) ELIGIBLE TRADE.—The term ''eligible trade'' means a trade on an eligible product between counterparties each of whom—

(i) is a swap dealer, security-based swap dealer, major swap participant, or major security-based swap participant; and

(ii) has a clearing relationship in place with 1 or more common derivative clearing organizations or clearing agencies) for the eligible product.

(B) ELIGIBLE PRODUCT.—The term ''eligible product'' means a product eligible for clearing by a derivative clearing organization or clearing agency.

(c) OTHER CONTRACTS AND COUNTERPARTIES.—The Board, in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission, shall actively engage central counterparties and regulators globally to—

(1) broaden the set of derivative products eligible for clearing by swap dealers, security-based swap dealers, major swap participants, and major security-based swap participants, taking into account risk, liquidity, default management and other processes; and

(2) expand the set of counterparties eligible to clear at each eligible central counterparty taking into account appropriate counterparty risk management considerations, including the development of buy-side clearing.

SEC. 4304. DEFINITIONS.

The terms used in this subtitle shall have the meanings given the terms in section 1a of the Commodity Exchange Act.

TITLE V—CORPORATE AND FINANCIAL INSTITUTION COMPENSATION FAIRNESS

SEC. 5001. SHORT TITLE.

This title may be cited as the ''Corporate and Financial Institution Compensation Fairness Act of 2009''.

SEC. 5002. SHAREHOLDER VOTE ON EXECUTIVE COMPENSATION.

(a) AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 14 of the Securities Exchange Act of 1934 (15 U.S.C. 78n) is amended by adding at the end the following new subsection:

''(i) TRIENNIAL ADVISORY SHAREHOLDER VOTE ON EXECUTIVE COMPENSATION.—

''(1) IN GENERAL.—A proxy or consent or authorization for an annual meeting of the shareholders (or a special meeting in lieu of the annual meeting) occurring on or after the date that is 6 months after the date on which final rules are issued under paragraph (4), shall provide for a separate shareholder advisory vote, at least once every three years, to approve the registrant's executive compensation policies and practices as set forth pursuant to the Commission's disclosure rules. The shareholder vote shall be advisory in nature and shall not be binding on the issuer or its board of directors and shall not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board, nor shall such vote be construed to restrict or limit the ability of shareholders to make proposals for inclusion in proxy materials related to executive compensation for meetings of shareholders at which such an advisory vote on executive compensation is not to be conducted.

''(2) OPT OUT.—If not less than ⅔ of votes cast at a meeting of shareholders on a proposal to opt out of the triennial shareholder advisory vote on executive compensation required under paragraph (1) are cast in favor of such a proposal, then such shareholder advisory vote required under such paragraph shall not be required to take place for a period of 5 years following the vote approving such proposal.

''(3) SHAREHOLDER APPROVAL OF GOLDEN PARACHUTE COMPENSATION.—

''(A) DISCLOSURE.—In any proxy or consent solicitation material for an annual meeting of the shareholders (or a special meeting in lieu of the annual meeting) occurring on or after the date that is 6 months after the date on which final rules are issued under paragraph (4), that concerns an acquisition, merger, consolidations, or proposed sale or other disposition of all or substantially all the assets of an issuer, the person making such solicitation shall disclose in the proxy or consent solicitation material, in a clear and simple tabular form in accordance with regulations to be promulgated by the Commission, any agreements or understandings that such person has with the named executive officers (as such term is defined in the rules promulgated by the Commission) of such issuer (or of the acquiring issuer, if such issuer is not the acquiring issuer) concerning any type of compensation (whether present, deferred, or contingent) that is based on or otherwise relates to the acquisition, merger, consolidation, sale, or other dispositions of all or substantially all of the assets of the issuer, and the aggregate total of all such compensation that may (and the conditions upon which it may) be paid or become payable to or on behalf of such named executive officer.

''(B) SHAREHOLDER APPROVAL.—Any proxy or consent or authorization relating to the proxy or consent solicitation material containing the disclosure required by subparagraph (A) shall provide for a separate shareholder vote to approve such agreements or understandings and compensation as disclosed. A vote by the shareholders shall not be binding on the corporation or the board of directors of the issuer or the person making the solicitation and shall not be construed as overruling a decision by such board, nor to create or imply any additional fiduciary duty by such board.''

''(4) RULEMAKING.—Not later than 1 year after the date of the enactment of the Corporate and Financial Institution Compensation Fairness Act of 2009, the Commission shall issue rules and regulations to implement this subsection.''.

(b) STUDY AND REPORT.—The Securities and Exchange Commission shall conduct a study and review of the results of shareholder advisory votes on executive compensation held pursuant to this section and the effects of such votes. Not later than 5 years after the date of enactment of this title, the Securities and Exchange Commission shall submit a report to the Congress on the results of the study and review required by this subsection.

SEC. 5003. COMPENSATION COMMITTEE INDEPENDENCE.

(a) STANDARDS RELATING TO COMPENSATION COMMITTEES.—The Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by inserting after section 10A the following new section:

''SEC. 10B. STANDARDS RELATING TO COMPENSATION COMMITTEES.

''(a) COMMISSION RULES.—

''(1) IN GENERAL.—Effective not later than 270 days after the date of enactment of the Corporate and Financial Institution Compensation Fairness Act of 2009, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any portion of subsections (b) through (f).

''(2) OPPORTUNITY TO CURE DEFECTS.—The rules of the Commission under paragraph (1) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under paragraph (1) before the imposition of such prohibition.

''(3) EXEMPTION AUTHORITY.—The Commission may exempt certain categories of issuers from the requirements of subsections (b) through (f), where appropriate in view of the purpose of this section. In determining appropriate exemptions, the Commission shall take into account, among other considerations, the potential impact on smaller reporting issuers.

''(4) NO FEDERAL PREEMPTION.—If the law of the State under which an issuer is incorporated provides for a procedure for the board of directors to establish an independent compensation committee, then such State law shall be controlling and nothing in this section shall preempt such State law.

''(b) INDEPENDENCE OF COMPENSATION COMMITTEES.—

''(1) IN GENERAL.—Each member of the compensation committee of the board of directors of the issuer shall be a member of the board of directors of the issuer, and shall otherwise be independent.

''(2) CRITERIA.—The Commission shall, by rule, establish the criteria for determining whether a director is independent for purposes of this subsection. Such rules shall require that a member of a compensation committee of an issuer may not, other than in his or her capacity as a member of the compensation committee, the board of directors, or any other board committee—

''(A) accept any consulting, advisory, or other compensatory fee from the issuer; or

''(B) be an affiliated person of the issuer or any subsidiary thereof.

''(3) EXEMPTIVE AUTHORITY.—The Commission may exempt from the requirements of paragraph (2) a particular relationship with respect to compensation committee members, where appropriate in view of the purpose of this section.

''(4) DEFINITION.—As used in this section, the term 'compensation committee' means—

''(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of determining and approving the compensation arrangements for the executive officers of the issuer; and

''(B) if no such committee exists with respect to an issuer, the independent members of the entire board of directors.

''(c) INDEPENDENCE STANDARDS FOR COMPENSATION CONSULTANTS AND OTHER COMMITTEE ADVISORS.—The charter of the compensation committee of the board of directors of an issuer shall set forth that any outside compensation consultant formally engaged or retained by the compensation committee shall meet standards for independence to be promulgated by the Commission.

''(d) COMPENSATION COMMITTEE AUTHORITY RELATING TO COMPENSATION CONSULTANTS.—

''(1) IN GENERAL.—The compensation committee of each issuer, in its capacity as a committee of the board of directors, shall have the authority, in its sole discretion, to retain and obtain the advice of a compensation consultant meeting the standards for independence promulgated pursuant to subsection (c), and the compensation committee shall be directly responsible for the appointment, compensation, and oversight of the work of such independent compensation consultant. This provision shall not be construed to require the compensation committee to implement or act consistently with the advice or recommendations of the compensation consultant, and shall not otherwise affect the compensation committee's ability or obligation to exercise its own judgment in fulfillment of its duties.

''(2) DISCLOSURE.—In any proxy or consent solicitation material for an annual meeting of the shareholders (or a special meeting in lieu of the annual meeting) occurring on or after the date that is 1 year after the date of enactment of the Corporate and Financial Institution Compensation Fairness Act of 2009, each issuer shall disclose in the proxy or consent material, in accordance with regulations to be promulgated by the Commission whether the compensation committee of the issuer retained and obtained the advice of a compensation consultant meeting the standards for independence promulgated pursuant to subsection (c).

''(e) AUTHORITY TO ENGAGE INDEPENDENT COUNSEL AND OTHER ADVISORS.—The compensation committee of each issuer, in its capacity as a committee of the board of directors, shall have the authority, in its sole discretion, to retain and obtain the advice of independent counsel and other advisers meeting the standards for independence promulgated pursuant to subsection (c), and the compensation committee shall be directly responsible for the appointment, compensation, and oversight of the work of such independent counsel and other advisers. This provision shall not be construed to require the compensation committee to implement or

act consistently with the advice or recommendations of such independent counsel and other advisers, and shall not otherwise affect the compensation committee's ability or obligation to exercise its own judgment in fulfillment of its duties.

''(f) FUNDING.—Each issuer shall provide for appropriate funding, as determined by the compensation committee, in its capacity as a committee of the board of directors, for payment of compensation—

''(1) to any compensation consultant to the compensation committee that meets the standards for independence promulgated pursuant to subsection (c); and

''(2) to any independent counsel or other adviser to the compensation committee.''.

(b) STUDY AND REVIEW REQUIRED.—

(1) IN GENERAL.—The Securities Exchange Commission shall conduct a study and review of the use of compensation consultants meeting the standards for independence promulgated pursuant to section 10B(c) of the Security Exchange Act of 1934 (as added by subsection (a)), and the effects of such use.

(2) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this title, the Commission shall submit a report to the Congress on the results of the study and review required by this paragraph.

TITLE VI—CREDIT RATING AGENCIES

SEC. 6001. CHANGES TO DESIGNATION.

The Securities Act of 1933 and the Securities Exchange Act of 1934 are each amended by striking ''nationally recognized statistical rating'' each place it appears and inserting ''nationally registered statistical rating''.

SEC. 6002. REMOVAL OF STATUTORY REFERENCES TO CREDIT RATINGS.

(a) FEDERAL DEPOSIT INSURANCE ACT.—The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended—

(1) in section 28(d)—

(A) in the subsection heading, by striking ''not of investment grade'';

(B) in paragraph (1), by striking ''not of investment grade'' and inserting ''that does not meet standards of credit-worthiness as established by the Corporation'';

(C) in paragraph (2), by striking ''not of investment grade'';

(D) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3); and

(E) in paragraph (3) (as so redesignated)—

(i) by striking subparagraph (A) and redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(ii) in subparagraph (B) (as so redesignated), by striking ''not of investment grade'' and inserting ''that does not meet standards of credit-worthiness as established by the Corporation'';

(2) in section 28(e)—

(A) in the subsection heading, by striking ''not of investment grade'';

(B) in paragraph (1), by striking ''not of investment grade'' and inserting ''that does not meet standards of credit-worthiness as established by the Corporation''; and

(C) in paragraphs (2) and (3), by striking ''not of investment grade'' each place that it appears and inserting ''that does not meet standards of credit-worthiness established by the Corporation''; and

(3) in section 7(b)(1)(E)(i), by striking ''credit rating entities, and other private economic'' and inserting ''private economic, credit,''.

(b) FEDERAL HOUSING ENTERPRISES FINANCIAL SAFETY AND SOUNDNESS ACT OF 1992.—Section 1319 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4519) is amended—

(1) in the section heading, by striking ''by rating organization''; and

(2) by striking ''that is a nationally recognized statistical rating organization, as such term is defined in section 3(a) of the Securities Exchange Act of 1934,''.

(c) INVESTMENT COMPANY ACT OF 1940.—Section 6(a)(5)(A)(iv)(I) of the Investment Company Act of 1940 (15 U.S.C. 80a-6(a)(5)(A)(iv)(I)) is amended by striking ''is rated investment grade by not less than 1 nationally recognized statistical rating organization'' and inserting ''meets such standards of credit-worthiness that the Commission shall adopt''.

(d) REVISED STATUTES.—Section 5136A of title LXII of the Revised Statutes of the United States (12 U.S.C. 24a) is amended—

(1) in subsection (a)(2)(E), by striking ''any applicable rating'' and inserting ''standards of credit worthiness established by the Comptroller of the Currency'';

(2) in the heading for subsection (a)(3) by striking ''rating or comparable requirement'' and inserting ''requirement'';

(3) in subsection (a)(3), by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—A national bank meets the requirements of this paragraph if the bank is one of the 100 largest insured banks and has not fewer than 1 issue of outstanding debt that meets standards of credit-worthiness or other criteria as the Secretary of the Treasury and the Board of Governors of the Federal Reserve System may jointly establish.'';

(4) in the heading for subsection (f), by striking ''maintain public rating or'' and inserting ''meet standards of credit-worthiness''; and

(5) in subsection (f)(1), by striking ''any applicable rating'' and inserting ''standards of credit-worthiness established by the Comptroller of the Currency''.

(e) SECURITIES EXCHANGE ACT OF 1934.—Section 3(a) Securities Exchange Act of 1934 (15 U.S.C. 78a(3)(a)) is amended—

(1) in paragraph (41), by striking ''is rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization'' and inserting ''meets standards of credit-worthiness as defined by the Commission''; and

(2) in paragraph (53)(A), by striking ''is rated in 1 of the 4 highest rating categories by at least 1 nationally recognized statistical rating organization'' and inserting ''meets standards of credit-worthiness as defined by the Commission''.

(f) WORLD BANK DISCUSSIONS.—Section 3(a)(6) of the amendment in the nature of a substitute to the text of H.R. 4645, as ordered reported from the Committee on Banking, Finance and Urban Affairs on September 22, 1988, as enacted into law by section 555 of Public Law 100-461, (22 U.S.C. 286hh(a)(6)), is amended by striking ''rating'' and inserting ''worthiness''.

(g) EFFECTIVE DATE.—The amendments made by this section shall take effect after the end of the 6-month period beginning on the date of the enactment of this title.

SEC. 6003. REVIEW OF RELIANCE ON RATINGS.

(a) AGENCY REVIEW.—

(1) REVIEW.—Not later than 1 year after the date of the enactment of this title, each Federal agency listed in paragraph (4) shall, to the extent applicable, review—

(A) any regulation issued by such agency that requires the use of an assessment of the credit-worthiness of a security or money market instrument; and

(B) any references to or requirements in such regulations regarding credit ratings.

(2) MODIFICATIONS REQUIRED.—Each such agency shall modify any such regulations identified by the review conducted under paragraph (1) to remove any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of credit-worthiness as each respective agency shall determine as appropriate for such regulations. In making such determination, such agencies shall seek to establish, to the extent feasible, uniform standards of credit-worthiness for use by each such agency, taking into account the entities regulated by each such agency and the purposes for which such entities would rely on such standards of credit-worthiness.

(3) REPORT.—Upon conclusion of the review required under paragraph (1), each Federal agency listed in paragraph (4) shall transmit a report to the Congress containing a description of any modification of any regulation such agency made pursuant to paragraph (2).

(4) APPLICABLE AGENCIES.—The agencies required to conduct the review and report required by this subsection are—

(A) the Securities and Exchange Commission;

(B) the Federal Deposit Insurance Corporation;

(C) the Office of Thrift Supervision;

(D) the Office of the Comptroller of the Currency;

(E) the Board of Governors of the Federal Reserve;

(F) the National Credit Union Administration; and

(G) the Federal Housing Finance Agency.

(b) GAO REVIEW OF OTHER AGENCIES.—

(1) REVIEW.—The Comptroller General of the United States shall conduct a comprehensive review of the use of credit ratings by Federal agencies other than those listed in subsection (a)(4), including an analysis of the provisions of law or regulation applicable to each such agency that refer to and require the use of credit ratings by the agency, and the policies and practices of each agency with respect to credit ratings.

(2) REPORT.—Not later than 1 year after the date of the enactment of this title, the Comptroller General shall transmit to the Congress a report on the findings of the study conducted pursuant to paragraph (1), including recommendations for any legislation or rulemaking necessary or appropriate in order for such agencies to reduce their reliance on credit ratings.

TITLE VII—GOVERNMENT-SPONSORED ENTERPRISES REFORM

SEC. 7001. SHORT TITLE.

This title may be cited as the ''Government-Sponsored Enterprises Free Market Reform Act of 2009''.

SEC. 7002. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) CHARTER.—The term ''charter'' means—

(A) with respect to the Federal National Mortgage Association, the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.); and

(B) with respect to the Federal Home Loan Mortgage Corporation, the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.).

(2) DIRECTOR.—The term ''Director'' means the Director of the Federal Housing Finance Agency.

(3) ENTERPRISE.—The term ''enterprise'' means—

(A) the Federal National Mortgage Association; and

(B) the Federal Home Loan Mortgage Corporation.

(4) GUARANTEE.—The term ''guarantee'' means, with respect to an enterprise, the credit support of the enterprise that is provided by the Federal Government through its charter as a Government-sponsored enterprise.

SEC. 7003. TERMINATION OF CURRENT CONSERVATORSHIP.

(a) IN GENERAL.—Upon the expiration of the period referred to in subsection (b), the

Director of the Federal Housing Finance Agency shall determine, with respect to each enterprise, if the enterprise is financially viable at that time and—

(1) if the Director determines that the enterprise is financially viable, immediately take all actions necessary to terminate the conservatorship for each of the enterprises; or

(2) if the Director determines that the enterprise is not financially viable, immediately appoint the Federal Housing Finance Agency as receiver under section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 and carry out such receivership under the authority of such section.

(b) TIMING.—The period referred to in this subsection is, with respect to an enterprise—

(1) except as provided in paragraph (2), the 24-month period beginning upon the date of the enactment of this title; or

(2) if the Director determines before the expiration of the period referred to in paragraph (1) that the financial markets would be adversely affected without the extension of such period under this paragraph with respect to that enterprise, the 30-month period beginning upon the date of the enactment of this title.

(c) FINANCIAL VIABILITY.—The Director may not determine that an enterprise is financially viable for purposes of subsection (a) if the Director determines that any of the conditions for receivership set forth in paragraph (3) or (4) of section 1367(a) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(a)) exists at the time with respect to the enterprise.

SEC. 7004. LIMITATION OF ENTERPRISE AUTHORITY UPON EMERGENCE FROM CONSERVATORSHIP.

(a) REVISED AUTHORITY.—Upon the expiration of the period referred to in section 7003(b), if the Director makes the determination under section 7003(a)(1), the following provisions shall take effect:

(1) PORTFOLIO LIMITATIONS.—Subtitle B of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4611 et seq.) is amended by adding at the end the following new section:

''SEC. 1369E. RESTRICTION ON MORTGAGE ASSETS OF ENTERPRISES.

''(a) RESTRICTION.—No enterprise shall own, as of any applicable date in this subsection or thereafter, mortgage assets in excess of—

''(1) upon the expiration of the period referred to in section 7003(b) of the Government-Sponsored Enterprises Free Market Reform Act of 2009, $850,000,000,000; or

''(2) on December 31 of each year thereafter, 80.0 percent of the aggregate amount of mortgage assets of the enterprise as of December 31 of the immediately preceding calendar year;

except that in no event shall an enterprise be required under this section to own less than $250,000,000,000 in mortgage assets.

''(b) DEFINITION OF MORTGAGE ASSETS.—For purposes of this section, the term 'mortgage assets' means, with respect to an enterprise, assets of such enterprise consisting of mortgages, mortgage loans, mortgage-related securities, participation certificates, mortgage-backed commercial paper, obligations of real estate mortgage investment conduits and similar assets, in each case to the extent such assets would appear on the balance sheet of such enterprise in accordance with generally accepted accounting principles in effect in the United States as of September 7, 2008 (as set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board from time to time; and without giving any effect to any change that may be made after September 7, 2008, in respect of Statement of Financial Accounting Standards No. 140 or any similar accounting standard).''.

(2) INCREASE IN MINIMUM CAPITAL REQUIREMENT.—Section 1362 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4612), as amended by section 1111 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289), is amended—

(A) in subsection (a), by striking ''For purposes of this subtitle, the minimum capital level for each enterprise shall be'' and inserting ''The minimum capital level established under subsection (g) for each enterprise may not be lower than'';

(B) in subsection (c)—

(i) by striking ''subsections (a) and'' and inserting ''subsection'';

(ii) by striking ''regulated entities'' the first place such term appears and inserting ''Federal Home Loan Banks'';

(iii) by striking ''for the enterprises,'';

(iv) by striking '', or for both the enterprises and the banks,'';

(v) by striking ''the level specified in subsection (a) for the enterprises or''; and

(vi) by striking ''the regulated entities operate'' and inserting ''such banks operate'';

(C) in subsection (d)(1)—

(i) by striking ''subsections (a) and'' and inserting ''subsection''; and

(ii) by striking ''regulated entity'' each place such term appears and inserting ''Federal home loan bank'';

(D) in subsection (e), by striking ''regulated entity'' each place such term appears and inserting ''Federal home loan bank'';

(E) in subsection (f)—

(i) by striking ''the amount of core capital maintained by the enterprises,''; and

(ii) by striking ''regulated entities'' and inserting ''banks''; and

(F) by adding at the end the following new subsection:

''(g) ESTABLISHMENT OF REVISED MINIMUM CAPITAL LEVELS.—

''(1) IN GENERAL.—The Director shall cause the enterprises to achieve and maintain adequate capital by establishing minimum levels of capital for the enterprises and by using such other methods as the Director deems appropriate.

''(2) AUTHORITY.—The Director shall have the authority to establish such minimum level of capital for an enterprise in excess of the level specified under subsection (a) as the Director, in the Director's discretion, deems to be necessary or appropriate in light of the particular circumstances of the enterprise.

''(h) FAILURE TO MAINTAIN REVISED MINIMUM CAPITAL LEVELS.—

''(1) UNSAFE AND UNSOUND PRACTICE OR CONDITION.—Failure of an enterprise to maintain capital at or above its minimum level as established pursuant to subsection (c) of this section may be deemed by the Director, in his discretion, to constitute an unsafe and unsound practice or condition within the meaning of this title.

''(2) DIRECTIVE TO ACHIEVE CAPITAL LEVEL.—

''(A) AUTHORITY.—In addition to, or in lieu of, any other action authorized by law, including paragraph (1), the Director may issue a directive to an enterprise that fails to maintain capital at or above its required level as established pursuant to subsection (c) of this section.

''(B) PLAN.—Such directive may require the enterprise to submit and adhere to a plan acceptable to the Director describing the means and timing by which the enterprise shall achieve its required capital level.

''(C) ENFORCEMENT.—Any such directive issued pursuant to this paragraph, including plans submitted pursuant thereto, shall be enforceable under the provisions of subtitle C of this title to the same extent as an effective and outstanding order issued pursuant to subtitle C of this title which has become final.

''(3) ADHERENCE TO PLAN.—

''(A) CONSIDERATION.—The Director may consider such enterprise's progress in adhering to any plan required under this subsection whenever such enterprise seeks the requisite approval of the Director for any proposal which would divert earnings, diminish capital, or otherwise impede such enterprise's progress in achieving its minimum capital level.

''(B) DENIAL.—The Director may deny such approval where it determines that such proposal would adversely affect the ability of the enterprise to comply with such plan.''.

(3) REPEAL OF INCREASES TO CONFORMING LOAN LIMITS.—

(A) REPEAL OF TEMPORARY INCREASES.—

(i) ECONOMIC STIMULUS ACT OF 2008.—Section 201 of the Economic Stimulus Act of 2008 (Public Law 110–185) is hereby repealed.

(ii) AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.—Section 1203 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 225) is hereby repealed.

(B) REPEAL OF GENERAL LIMIT AND PERMANENT HIGH-COST AREA INCREASE.—Paragraph (2) of section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) and paragraph (2) of section 305(a) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) are each amended to read as such sections were in effect immediately before the enactment of the Housing and Economic Recovery Act of 2008 (Public Law 110–289).

(C) REPEAL OF NEW HOUSING PRICE INDEX.—Section 1322 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as added by section 1124(d) of the Housing and Economic Recovery Act of 2008 (Public Law 110–289), is hereby repealed.

(D) REPEAL.—Section 1124 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289) is hereby repealed.

(E) ESTABLISHMENT OF CONFORMING LOAN LIMIT.—For the year in which the expiration of the period referred to in section 7003(b) of this section occurs, the limitations governing the maximum original principal obligation of conventional mortgages that may be purchased by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, referred to in section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) and section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)), respectively, shall be considered to be—

(i) $417,000 for a mortgage secured by a single-family residence,

(ii) $533,850 for a mortgage secured by a 2-family residence,

(iii) $645,300 for a mortgage secured by a 3-family residence, and

(iv) $801,950 for a mortgage secured by a 4-family residence,

and such limits shall be adjusted effective each January 1 thereafter in accordance with such sections 302(b)(2) and 305(a)(2).

(F) PROHIBITION OF PURCHASE OF MORTGAGES EXCEEDING MEDIAN AREA HOME PRICE.—

(i) FANNIE MAE.—Section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by adding at the end the following new sentence: ''Notwithstanding any other provision

of this title, the corporation may not purchase any mortgage for a property having a principal obligation that exceeds the median home price, for properties of the same size, for the area in which such property subject to the mortgage is located.''.

(ii) FREDDIE MAC.—Section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by adding at the end the following new sentence: ''Notwithstanding any other provision of this title, the Corporation may not purchase any mortgage for a property having a principal obligation that exceeds the median home price, for properties of the same size, for the area in which such property subject to the mortgage is located.''.

(4) REQUIREMENT TO PAY STATE AND LOCAL TAXES.—

(A) FANNIE MAE.—Paragraph (2) of section 309(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(c)(2)) is amended—

(i) by striking ''shall be exempt from'' and inserting ''shall be subject to''; and

(ii) by striking ''except that any'' and inserting ''and any''.

(B) FREDDIE MAC.—Section 303(e) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(e)) is amended—

(i) by striking ''shall be exempt from'' and inserting ''shall be subject to''; and

(ii) by striking ''except that any'' and inserting ''and any''.

(5) REPEALS RELATING TO REGISTRATION OF SECURITIES.—

(A) FANNIE MAE.—

(i) MORTGAGE-BACKED SECURITIES.—Section 304(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(d)) is amended by striking the fourth sentence.

(ii) SUBORDINATE OBLIGATIONS.—Section 304(e) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(e)) is amended by striking the fourth sentence.

(B) FREDDIE MAC.—Section 306 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1455) is amended by striking subsection (g).

(6) RECOUPMENT OF COSTS FOR FEDERAL GUARANTEE.—

(A) ASSESSMENTS.—The Director of the Federal Housing Finance Agency shall establish and collect from each enterprise assessments in the amount determined under subparagraph (B). In determining the method and timing for making such assessments, the Director shall take into consideration the determinations and conclusions of the study under subsection (b) of this section.

(B) DETERMINATION OF COSTS OF GUARANTEE.—Assessments under subparagraph (A) with respect to an enterprise shall be in such amount as the Director determines necessary to recoup to the Federal Government the full value of the benefit the enterprise receives from the guarantee provided by the Federal Government for the obligations and financial viability of the enterprise, based upon the dollar value of such benefit in the market to such enterprise when not operating under conservatorship or receivership. To determine such amount, the Director shall establish a risk-based pricing mechanism as the Director considers appropriate, taking into consideration the determinations and conclusions of the study under subsection (b) of this section.

(C) TREATMENT OF RECOUPED AMOUNTS.—The Director shall cover into the general fund of the Treasury any amounts received from assessments made under this paragraph.

(b) GAO STUDY REGARDING RECOUPMENT OF COSTS FOR FEDERAL GOVERNMENT GUARANTEE.—The Comptroller General of the United States shall conduct a study to determine a risk-based pricing mechanism to accurately determine the value of the benefit the enterprises receive from the guarantee provided by the Federal Government for the obligations and financial viability of the enterprises. Such study shall establish a dollar value of such benefit in the market to each enterprise when not operating under conservatorship or receivership, shall analyze various methods of the Federal Government assessing a charge for such value received (including methods involving an annual fee or a fee for each mortgage purchased or securitized), and shall make a recommendation of the best such method for assessing such charge. Not later than 12 months after the date of the enactment of this title, the Comptroller General shall submit to the Congress a report setting forth the determinations and conclusions of such study.

SEC. 7005. REQUIREMENT TO PERIODICALLY RENEW CHARTER UNTIL WIND DOWN AND DISSOLUTION.

(a) REQUIRED RENEWAL; WIND DOWN AND DISSOLUTION UPON NON-RENEWAL.—Upon the expiration of the 3-year period that begins upon the expiration of the period referred to in section 7003(b), unless the charter of an enterprise is renewed pursuant to subsection (b) of this section, section 7006 (relating to wind down of operations and dissolution of enterprise) shall apply to the enterprise.

(b) RENEWAL PROCEDURE.—

(1) APPLICATION; TIMING.—The Director shall provide for each enterprise to apply to the Director, before the expiration of the 3-year period under subsection (a), for renewal of the charter of the enterprise.

(2) STANDARD.—The Director shall approve the application of an enterprise for the renewal of the charter of the enterprise if—

(A) the application includes a certification by the enterprise that the enterprise is financially sound and is complying with all provisions of, and amendments made by, section 7004 of this title applicable to such enterprise; and

(B) the Director verifies that the certification made pursuant to subparagraph (A) is accurate.

(c) OPTION TO REAPPLY.—Nothing in this section may be construed to require an enterprise to apply under this section for renewal of the charter of the enterprise.

SEC. 7006. REQUIRED WIND DOWN OF OPERATIONS AND DISSOLUTION OF ENTERPRISE.

(a) APPLICABILITY.—This section shall apply to an enterprise—

(1) upon the expiration of the 3-year period referred to in such section 7005(a), to the extent provided in such section; and

(2) if this section has not previously applied to the enterprise, upon the expiration of the 6-year period that begins upon the expiration of the period referred to in section 7003(b).

(b) WIND DOWN.—Upon the applicability of this section to an enterprise, the Director and the Secretary of the Treasury shall jointly take such action, and may prescribe such regulations and procedures, as may be necessary to wind down the operations of an enterprise as an entity chartered by the United States Government over the duration of the 10-year period beginning upon the applicability of this section to the enterprise (pursuant to subsection (a)) in an orderly manner consistent with this title and the ongoing obligations of the enterprise.

(c) DIVISION OF ASSETS AND LIABILITIES; AUTHORITY TO ESTABLISH HOLDING CORPORATION AND DISSOLUTION TRUST FUND.—The action and procedures required under subsection (b)—

(1) shall include the establishment and execution of plans to provide for an equitable division and distribution of assets and liabilities of the enterprise, including any liability of the enterprise to the United States Government or a Federal reserve bank that may continue after the end of the period described in subsection (b); and

(2) may provide for establishment of—

(A) a holding corporation organized under the laws of any State of the United States or the District of Columbia for the purposes of the reorganization and restructuring of the enterprise; and

(B) one or more trusts to which to transfer—

(i) remaining debt obligations of the enterprise, for the benefit of holders of such remaining obligations; or

(ii) remaining mortgages held for the purpose of backing mortgage-backed securities, for the benefit of holders of such remaining securities.

(d) REPEAL OF CHARTER.—Effective upon the expiration of the 10-year period referred to in subsection (b) for an enterprise, the charter for the enterprise is repealed, except that the provisions of such charter in effect immediately before such repeal shall continue to apply with respect to the rights and obligations of any holders of outstanding debt obligations and mortgage-backed securities of the enterprise.

TITLE VIII—FEDERAL INSURANCE OFFICE

SEC. 8001. SHORT TITLE.

This title may be cited as the ''Federal Insurance Office Act of 2009''.

SEC. 8002. FEDERAL INSURANCE OFFICE ESTABLISHED.

(a) ESTABLISHMENT OF OFFICE.—Subchapter I of chapter 3 of title 31, United States Code, is amended—

(1) by transferring and inserting section 312 after section 313;

(2) by redesignating sections 313 and 312 (as so transferred) as sections 312 and 315, respectively; and

(3) by inserting after section 312 (as so redesignated) the following new sections:

''SEC. 313. FEDERAL INSURANCE OFFICE.

''(a) ESTABLISHMENT OF OFFICE.—There is established the Federal Insurance Office as an office in the Department of the Treasury.

''(b) LEADERSHIP.—The Office shall be headed by a Director, who shall be appointed by the Secretary of the Treasury. The position of such Director shall be a career reserved position in the Senior Executive Service.

''(c) FUNCTIONS.—

''(1) AUTHORITY PURSUANT TO DIRECTION OF SECRETARY.—The Office shall have the authority, pursuant to the direction of the Secretary, as follows:

''(A) To monitor the insurance industry to gain expertise.

''(B) To identify issues or gaps in the regulation of insurers that could contribute to a systemic crisis in the insurance industry or the United States financial system.

''(C) To recommend for review by the Market Stability and Capital Adequacy Board any activities or practices by insurers or their affiliates that may be exacerbating systemic risk.

''(D) To assist the Secretary in administering the Terrorism Insurance Program established in the Department of the Treasury under the Terrorism Risk Insurance Act of 2002 (15 U.S.C. 6701 note).

''(E) To coordinate Federal efforts and develop Federal policy on prudential aspects of international insurance matters, including representing the United States as appropriate in the International Association of Insurance Supervisors or any successor organization and assisting the Secretary in negotiating covered agreements.

''(F) To determine, in accordance with subsection (f), whether State insurance measures are preempted by covered agreements.

''(G) To consult with the States regarding insurance matters of national importance and prudential insurance matters of international importance.

''(H) To perform such other related duties and authorities as may be assigned to it by the Secretary.

''(2) ADVISORY FUNCTIONS.—The Office shall advise the Secretary on major domestic and prudential international insurance policy issues.

''(d) SCOPE.—The authority of the Office shall extend to all lines of insurance except health insurance, as determined by the Secretary based on section 2791 of the Public Health Service Act (42 U.S.C. 300gg-91).

''(e) GATHERING OF INFORMATION.—

''(1) GENERAL.—In carrying out its functions under subsection (c), the Office may request, receive, and collect data and information on and from the insurance industry and insurers, enter into information-sharing agreements, analyze and disseminate data and information, and issue reports regarding all lines of insurance except health insurance.

''(2) COLLECTION OF INFORMATION FROM INSURERS AND AFFILIATES.—Except as provided in paragraph (3) and subject to paragraph (4), the Office may require an insurer, or affiliate of an insurer, to submit such data or information that the Office may reasonably require in carrying out its functions under subsection (c). Notwithstanding subsection (p) and for the purposes of this paragraph only, the term 'insurer' means any entity that is authorized to write insurance or reinsure risks and issue contracts or policies in one or more States.

''(3) EXCEPTION FOR SMALL INSURERS.—Paragraph (2) shall not apply with respect to any insurer or affiliate thereof that meets a minimum size threshold that may be established by the Office by order or rule. Such threshold shall be appropriate to the particular request and need for the data or information.

''(4) ADVANCE COORDINATION.—Before collecting any data or information under paragraph (2) from an insurer, or affiliate of an insurer, the Office shall coordinate with each relevant Federal agency and State insurance regulator (or other relevant Federal or State regulatory agency, if any, in the case of an affiliate of an insurer) and any publicly available sources to determine if the information to be collected is available from, or may be obtained in a timely manner by, such Federal agency or State insurance regulator, individually or collectively, other regulatory agency, or publicly available sources. If the Director determines that such data or information is available, or may be obtained in a timely manner, from such an agency, regulator, regulatory agency, or source, the Director shall obtain the data or information from such agency, regulator, regulatory agency, or source. If the Director determines that such data or information is not so available, the Director may collect such data or information from an insurer (or affiliate) only if the Director complies with the requirements of subchapter I of chapter 35 of title 44, United States Code (relating to Federal information policy; commonly known as the Paperwork Reduction Act) in collecting such data or information. Notwithstanding any other provision of law, each such relevant Federal agency and State insurance regulator or other Federal or State regulatory agency is authorized to provide to the Office such data or information.

''(5) CONFIDENTIALITY.—

''(A) The submission of any non-publicly available data and information to the Office under this subsection shall not constitute a waiver of, or otherwise affect, any privilege arising under Federal or State law (including the rules of any Federal or State Court) to which the data or information is otherwise subject.

''(B) Any requirement under Federal or State law to the extent otherwise applicable, or any requirement pursuant to a written agreement in effect between the original source of any non-publicly available data or information and the source of such data or information to the Office, regarding the privacy or confidentiality of any data or information in the possession of the source to the Office, shall continue to apply to such data or information after the data or information has been provided pursuant to this subsection to the Office.

''(C) Any data or information obtained by the Office may be made available to State insurance regulators individually or collectively through an information sharing agreement that shall comply with applicable Federal law and that shall not constitute a waiver of, or otherwise affect, any privilege under Federal or State law (including the rules of any Federal or State Court) to which the data or information is otherwise subject.

''(D) Section 552 of title 5, United States Code, shall apply to any data or information submitted by an insurer or affiliate of an insurer.

''(f) PREEMPTION OF STATE INSURANCE MEASURES.—

''(1) STANDARD.—A State insurance measure shall be preempted pursuant to this section or section 314 if, and only to the extent that the Director determines, in accordance with this subsection, that the measure—

''(A) directly results in less favorable treatment of a non-United States insurer domiciled in a foreign jurisdiction that is subject to a covered agreement than a United States insurer domiciled, licensed, admitted, or otherwise authorized in that State; and

''(B) is inconsistent with a covered agreement that is entered into on a date after the date of the enactment of this Act.

''(2) DETERMINATION.—

''(A) NOTICE OF POTENTIAL INCONSISTENCY.—Before making any determination of inconsistency, the Director shall—

''(i) notify and consult with the appropriate State regarding any potential inconsistency or preemption;

''(ii) notify and consult with the United States Trade Representative regarding any potential inconsistency or preemption;

''(iii) cause to be published in the Federal Register notice of the issue regarding the potential inconsistency or preemption, including a description of each State insurance measure at issue and any applicable covered agreement;

''(iv) provide interested parties a reasonable opportunity to submit written comments to the Office;

''(v) consider the effect of preemption on—

''(I) the protection of policyholders and policy claimants;

''(II) the maintenance of the safety, soundness, integrity, and financial responsibility of any entity involved in the business of insurance or insurance operations;

''(III) ensuring the integrity and stability of the United States financial system; and

''(IV) the creation of a gap or void in financial or market conduct regulation of any entity involved in the business of insurance or insurance operations in the United States; and

''(vi) consider any comments received.

The Director shall provide the notifications required under clauses (i), (ii), and (iii) contemporaneously.

''(B) SCOPE OF REVIEW.—For purposes of this section, the Director's determination of State insurance measures shall be limited to the subject matter of the prudential measures applicable to the business of insurance contained within the covered agreement involved.

''(C) NOTICE OF DETERMINATION OF INCONSISTENCY.—Upon making any determination of inconsistency, the Director shall—

''(i) notify the appropriate State of the determination and the extent of the inconsistency;

''(ii) establish a reasonable period of time, which shall not be shorter than 90 days, before the determination shall become effective; and

''(iii) notify the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate of the inconsistency.

''(3) NOTICE OF EFFECTIVENESS.—Upon the conclusion of the period referred to in paragraph (2)(C)(ii), if the basis for the determination of inconsistency still exists, the determination shall become effective and the Director shall—

''(A) cause to be published notice in the Federal Register that the preemption has become effective, as well as the effective date; and

''(B) notify the appropriate State.

''(4) LIMITATION.—No State may enforce a State insurance measure to the extent that it has been preempted under this subsection.

''(g) APPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT.—Determinations of inconsistency pursuant to subsection (f)(2) shall be subject to the applicable provisions of subchapter II of chapter 5 of title 5, United States Code (relating to administrative procedure), and chapter 7 of such title (relating to judicial review), except that in any action for judicial review of a determination of inconsistency, the court shall determine the matter de novo.

''(h) REGULATIONS, POLICIES, AND PROCEDURES.—The Secretary may issue orders, regulations, policies and procedures to implement this section.

''(i) CONSULTATION.—The Director shall consult with State insurance regulators, individually and collectively, to the extent the Director determines appropriate, in carrying out the functions of the Office.

''(j) SAVINGS PROVISIONS.—Nothing in this section shall—

''(1) preempt any State insurance measure that governs any insurer's rates, premiums, underwriting or sales practices, or State coverage requirements for insurance, or to the application of the antitrust laws of any State to the business of insurance;

''(2) preempt any State insurance measure governing the capital or solvency of an insurer, except to the extent that such State insurance measure directly results in less favorable treatment of a non-United States insurer than a United States insurer;

''(3) be construed to alter, amend, or limit the responsibility of any department or agency of the Federal Government to issue regulations under the Truth in Lending Act (15 U.S.C. 1601 et seq.) or any other Federal law regulating the provision of consumer financial products or services;

''(4) preempt any State insurance measure because of inconsistency with any agreement that is not a covered agreement (as such term in defined in subsection (p)); or

''(5) affect the preemption of any State insurance measure otherwise inconsistent with and preempted by Federal law.

''(k) RETENTION OF EXISTING STATE REGULATORY AUTHORITY.—Nothing in this section or section 314 shall be construed to establish a general supervisory or regulatory authority of the Office or the Department of the Treasury over the business of insurance.

''(l) RETENTION OF AUTHORITY OF FEDERAL FINANCIAL REGULATORY AGENCIES.—Nothing

in this section or section 314 shall be construed to limit the authority of any Federal financial regulatory agency, including the authority to develop and coordinate policy, negotiate, and enter into agreements with foreign governments, authorities, regulators, and multi-national regulatory committees and to preempt State measures to affect uniformity with international regulatory agreements.

''(m) RETENTION OF AUTHORITY OF UNITED STATES TRADE REPRESENTATIVE.—Nothing in this section or section 314 shall be construed to affect the authority of the Office of the United States Trade Representative pursuant to section 141 of the Trade Act of 1974 (19 U.S.C. 2171) or any other provision of law, including authority over the development and coordination of United States international trade policy and the administration of the United States trade agreements program.

''(n) REPORTS TO CONGRESS.—

''(1) ANNUAL REPORT.—Beginning September 30, 2011, the Director shall submit a report on or before September 30 of each calendar year to the President and to the Committees on Financial Services and Ways and Means of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Finance of the Senate on the insurance industry, any actions taken by the office pursuant to subsection (f) (regarding preemption of inconsistent State insurance measures).

''(2) OTHER REPORTS.—The Director shall submit to the President and the Committees referred to in paragraph (1) any other information or reports as deemed relevant by the Director or as requested by the Chairman or Ranking Member of any of such Committees.

''(o) USE OF EXISTING RESOURCES.—To carry out this section, the Office may employ personnel, facilities, and other Department of the Treasury resources available to the Secretary and the Secretary shall dedicate specific personnel to the Office.

''(p) DEFINITIONS.—For purposes of this section and section 314, the following definitions shall apply:

''(1) AFFILIATE.—The term 'affiliate' means, with respect to an insurer, any person that controls, is controlled by, or is under common control with the insurer.

''(2) COVERED AGREEMENT.—The term 'covered agreement' means a written bilateral or multilateral recognition agreement that—

''(A) is entered into between the United States and one or more foreign governments, authorities, or regulatory entities; and

''(B) provides for recognition of prudential measures with respect to the business of insurance or reinsurance that achieves a level of protection for insurance or reinsurance consumers that is substantially equivalent to the level of protection achieved under State insurance or reinsurance regulation.

''(3) DETERMINATION OF INCONSISTENCY.—The term 'determination of inconsistency' means a determination that a State insurance measure is preempted under subsection (f).

''(4) FEDERAL FINANCIAL REGULATORY AGENCY.—The term 'Federal financial regulatory agency' means the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, or the National Credit Union Administration.

''(5) INSURER.—The term 'insurer' means any person engaged in the business of insurance, including reinsurance.

''(6) NON-UNITED STATES INSURER.—The term 'non-United States insurer' means an insurer that is organized under the laws of a jurisdiction other than a State, but does not include any United States branch of such an insurer.

''(7) OFFICE.—The term 'Office' means the Federal Insurance Office established by this section.

''(8) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

''(9) STATE.—The term 'State' means any State, commonwealth, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

''(10) STATE INSURANCE MEASURE.—The term 'State insurance measure' means any State law, regulation, administrative ruling, bulletin, guideline, or practice relating to or affecting prudential measures applicable to insurance or reinsurance.

''(11) STATE INSURANCE REGULATOR.—The term 'State insurance regulator' means any State regulatory authority responsible for the supervision of insurers.

''(12) UNITED STATES INSURER.—The term 'United States insurer' means—

''(A) an insurer that is organized under the laws of a State; or

''(B) a United States branch of a non-United States insurer.

''(q) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Office such sums as may be necessary for each fiscal year.

''SEC. 314. COVERED AGREEMENTS.

''(a) AUTHORITY.—The Secretary and the United States Trade Representative are authorized, jointly, to negotiate and enter into covered agreements on behalf of the United States.

''(b) REQUIREMENTS FOR CONSULTATION WITH CONGRESS.—

''(1) IN GENERAL.—Before initiating negotiations to enter into a covered agreement under subsection (a), during such negotiations, and before entering into any such agreement, the Secretary and the United States Trade Representative shall jointly consult with the Committee on Financial Services and the Committee on Ways and Means of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Finance of the Senate.

''(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

''(A) the nature of the agreement;

''(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of section 313 and this section; and

''(C) the implementation of the agreement, including the general effect of the agreement on existing State laws.

''(c) SUBMISSION AND LAYOVER PROVISIONS.—A covered agreement under subsection (a) may enter into force with respect to the United States only if—

''(1) the Secretary and the United States Trade Representative jointly submit to the congressional committees specified in subsection (b)(1), on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement; and

''(2) a period of 90 calendar days beginning on the date on which the copy of the final legal text of the agreement is submitted to the congressional committees under paragraph (1) has expired.''.

(b) DUTIES OF SECRETARY.—Section 321(a) of title 31, United States Code, is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8)(C), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new paragraph:

''(9) advise the President on major domestic and international prudential policy issues in connection with all lines of insurance except health insurance.''.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter I of chapter 3 of title 31, United States Code, is amended by striking the item relating to section 312 and inserting the following new items:

''Sec. 312. Terrorism and Financial Intelligence.
''Sec. 313. Federal Insurance Office.
''Sec. 314. Covered agreements.
''Sec. 315. Continuing in office.''.

SEC. 8003. REPORT ON GLOBAL REINSURANCE MARKET.

Not later than September 30, 2011, the Director of the Federal Insurance Office appointed under section 313(b) of title 31, United States Code (as amended by section 8002(a)(3) of this title) shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the breadth and scope of the global reinsurance market and the critical role such market plays in supporting insurance in the United States.

SEC. 8004. STUDY ON MODERNIZATION AND IMPROVEMENT OF INSURANCE REGULATION IN THE UNITED STATES.

(a) STUDY.—The Director of the Federal Insurance Office appointed under section 313(b) of title 31, United States Code (as amended by section 8002(a)(3) of this title) shall conduct a study on how to modernize and improve the system of insurance regulation in the United States. Such study shall include consideration of the following:

(1) Effective systemic risk regulation with respect to insurance.

(2) Strong capital standards and an appropriate match between capital allocation and liabilities for all risk.

(3) Meaningful and consistent consumer protection for insurance products and practices.

(4) Increased national uniformity through either a Federal charter or effective action by the States.

(5) Improved and broadened regulation of insurance companies and affiliates on a consolidated basis, including affiliates outside of the traditional insurance business.

(6) International coordination.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Director shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing—

(1) the results of the study conducted under subsection (a); and

(2) any legislative, administrative, or regulatory recommendations that the Director considers appropriate to modernize and improve the system of insurance regulation in the United States.

(c) CONSULTATION.—In carrying out subsections (a) and (b), the Director shall consult with State insurance commissioners, consumer organizations, representatives of the insurance industry, policyholders, and other persons, as the Director considers appropriate.

The Acting CHAIR. Pursuant to House Resolution 964, the gentleman from Alabama (Mr. BACHUS) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Alabama.

Mr. BACHUS. Madam Chairman, I yield myself 3 minutes.

Madam Chair, the gentleman from Maryland (Mr. HOYER) just talked about we're not going to call time out. But, ladies and gentlemen, the American people are calling time out. They are ready to put this Congress and this administration and the Federal Reserve into timeout. The time has expired on bailouts. That's the message we are hearing all over America. Americans are saying no more bailouts, and they are saying no more bailout funds.

That's the primary difference between the Democratic plan and the Republican plan. Once and for all, we say no more bailouts.

The American people, quite frankly, don't care about the mechanics. They don't care about the details. What they do care is that they be treated fairly, and they not be obligated for a risk that they didn't take. That's our plan. It's that simple. If bankruptcy is good enough for American citizens, if it's good enough for small businesses, if it's good enough for 999 of America's corporations, it ought to be good enough for the largest ''too big to fail'' institutions, and that's the last thing we put to death with our plan. There won't be any more ''too big to fail.'' You take risk or you loan or allow people to take risk with your money, you lose; not the American people.

No more bailouts. No more bailouts. Vote for the Republican substitute.

I reserve the balance of my time.

Mr. FRANK of Massachusetts. I claim the time in opposition.

The Acting CHAIR. The gentleman is recognized for 15 minutes.

Mr. FRANK of Massachusetts. I first yield myself 1 minute to say, we agree, no more bailouts. The Republicans cannot accept the fact that we have a bill that bans them. It specifically does not allow what happened.

Last year, Bush administration officials decided to use section 13(3) of the Federal Reserve to provide funds for the creditors of Bear Stearns and for AIG itself. That would not be legally possible under the bill we put forward.

Similarly, we have funds that come not from the taxpayers, but from an assessment on large financial institutions which can be used explicitly, not for any failed institution, but can be used when that institution is being put out of business in case it is necessary to prevent that failure from having negative destabilizing effects. The Republicans don't want to do that.

He said that the major difference is—another difference—we have a number of provisions in here to make it less likely that that will happen. Yes, if a big institution gets overly indebted and fails, it ought to be allowed to fail and we will have to deal with the consequences. But it would also be better not cavalierly to say, Let 'em fail. Let's try to stop it.

I now yield 2 minutes to the gentleman from Illinois (Mr. GUTIERREZ).

Mr. GUTIERREZ. Madam Chair, I would like to take that time to enter into a colloquy with the chairman.

Chairman FRANK, while I continue to strongly support the amendment that I offered during the Financial Services Committee markup changing the assessment base for FDIC deposit insurance funds payments from domestic deposits to total assets less tangible equity, it has come to my attention that the change adopted by the committee may result in disproportionate impacts on certain types of specialized banks, including custodians and bankers' banks.

A provision you included in the manager's amendment would address this issue and require the FDIC to make appropriate adjustments to the assessment base for custodians and bankers' banks. The FDIC has advised my staff that the revised version of this provision will give the agency sufficient flexibility.

I appreciate your willingness to accept this change to address the legitimate issues raised by the specialized business models of custodians and bankers' banks.

Mr. FRANK of Massachusetts. If the gentleman would yield, I would say, yes, this is another example of the superiority over this bill to the Republican substitute, because the gentleman from Illinois took the lead in addressing the unfairness of having smaller banks have to contribute, we believe, disproportionately, to the insurance fund, because of the risky problems of big banks. He has got in here language that addresses that. It's one reason why the independent community bankers like our bill.

Yes, I will continue to work with him. I did want to do that now to stress that in this bill, as opposed to the Republican substitute, there is some redress. Big banks will have to pay more and smaller banks less because of the riskiness of what they do.

I thank the gentleman.

Mr. GUTIERREZ. Thank you.

I was hoping to bring up with you a very important subject that is vital to the health of our community banks. With the changes that this legislation makes to the DIF assessments, any funds from the Federal Home Loan Banks that banks have on their books would be doubly assessed by the FDIC. I understand the FDIC's reasoning behind the premiums on FHLB funds, but since these funds are now taken into account in the new assessment base, I believe these premiums to be duplicative. I am hoping that you will work with me and the FDIC to address my concerns about these premiums.

Mr. FRANK of Massachusetts. Yes. Again, if the gentleman would yield, this illustrates one other area where the legislation we have is far better and more responsive to the needs of small banks than the Republican bill. This improves on it, and I agree with him.

Mr. BACHUS. Madam Chair, I yield 2 minutes to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Madam Chair, the Democratic bill is silent on the root cause of the financial collapse. It was the government-sponsored enterprises, Fannie and Freddie, that were at the heart of the housing market and largely responsible for the proliferation of subprime and Alt-A mortgages throughout the financial system. Over the years, they loaded up on over $1 trillion worth of these junk loans.

Frankly, Fannie and Freddie also infected capital markets and spread through every sector of our banking system. Before the bursting of the housing bubble, GSE securities constituted more than 150 percent of core capital for insured banks. More than 40 percent of money market mutual fund holdings were in the form of GSE securities. That is why Senator Chuck Hagel offered legislation for stronger regulation which passed the Senate Banking Committee on a party-line vote but was blocked by the Senate Democrats from coming to the floor. My amendment was also defeated.

The affordable housing goals were put in by the Democratic-controlled Congress. They mandated it in 1992. These affordable housing goals led the GSEs into the subprime and Alt-A market, and ultimately led to their collapse.

□ 1215

Former President Bill Clinton understands this epic blunder. He said, ''I think the responsibility that the Democrats have may rest more in resisting any efforts by Republicans in the Congress, or by me when I was President, to put some standards and tighten up a little on Fannie Mae and Freddie Mac.''

Let it be clear: This is the main reason why our economy is where it is today, and this is why we must reform the GSEs. Instead, the Democrats keep them in conservatorship, bail them out forever in their legislation. The Republicans, on the other hand, end bailouts, and the Republicans also reform the GSEs.

Mr. FRANK of Massachusetts. Madam Chair, I yield myself 1 minute.

From 1995 through 2006, when the Republicans controlled this House and the Senate, they did no legislation on Fannie Mae and Freddie Mac. It was the Republicans who didn't do it. The Republican House in 2005 passed a bill which the Republican Senate and the Republican President opposed. The chairman of the committee, Mr. OXLEY, blamed them for doing it. In 2007, we did pass such a bill. And in 2004, it was President Bush unilaterally that pushed up substantially the affordable housing goals, including significantly for people under median income, which I opposed at the time.

Madam Chair, I yield 2 minutes to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Madam Chair, I rise in strong opposition to the Republican substitute. In fact, when you look at it, it's nowhere near H.R. 4173.

Let me tell you what H.R. 4173 does. It strengthens protections for consumers and updates the regulatory structure, brings transparency to the previously unregulated derivatives market, and ensures that no one would be permitted to survive simply because they're ''too big to fail.'' That's what 4173 does.

Now, we all agree that the financial industry is, in fact, the lifeblood of America's economy and is a global leader in size, innovation, and employment. And I believe it is essential to sustain this industry while making it accountable for its actions, and that is exactly what H.R. 4173 accomplishes. For the sake of restoring America's economy, we must restore a strong and accountable financial sector.

Therefore, I am against the Republican substitute and for H.R. 4173 because it will ensure that the financial industry will get back on solid footing and back to the business of lending to American families and industries, while guaranteeing that financial firms will bear the risks that they take without recourse to the taxpayer.

I support H.R. 4173 because of the impact the financial crisis has had on middle America. Our small businesses cannot access credit. Retirees are forced to go back to work because their pensions are depleted and they have upside-down mortgages. And in my community, we have an astronomical unemployment rate.

Finally, let me emphasize that these reforms that are in H.R. 4173 strengthen our system of capitalism and free enterprise.

To those who criticize this legislation as antimarkets, I would counter that this legislation is good for consumers and good for businesses because investors are staying out of the market right now and companies across the Nation are struggling to stay in business, let alone creating desperately needed jobs.

By strengthening protections for consumers and investors and bringing transparency and accountability to the marketplace, we are restoring the cornerstone of a healthy and sustainable economy of the free world.

Mr. BACHUS. Madam Chair, would you give the time remaining on each side.

The SPEAKER pro tempore. The gentleman from Alabama (Mr. BACHUS) has 11 minutes remaining, and the gentleman from Massachusetts (Mr. FRANK) has 9½ minutes remaining.

Mr. BACHUS. Madam Chair, I yield 30 seconds to the gentleman from California (Mr. ROYCE).

Mr. ROYCE. Madam Chair, again, in 1992, it was the Democrats that put in place the legislation that led Fannie Mae and Freddie Mac into the subprime and Alt-A loans. And every time there was an amendment up, and I remember specifically my amendment up on this House floor that tried to do what was requested by the Federal Reserve to stop the systemic risk, there was opposition to it.

Now, the legislation before us today, to compound this problem, exempts Fannie Mae and Freddie Mac again from this reform. And every time there was legislation that was actually backed by the Federal Reserve, the chairman opposed that legislation.

Mr. FRANK of Massachusetts. I yield myself 30 seconds.

I want to point out that the gentleman conveniently forgets to say that the opposition came from his own Republican leadership. Yes, he offered an amendment in 2005, the only time that the Republicans let a bill come up, and he was defeated with the overwhelming vote of the Republicans as well as the Democrats. I wanted some reform that preserved rental housing.

Finally, in 2007, we in the majority passed a bill that was recommended. And in 2004, President Bush—and, yes, the affordable goals came in 1992—President Bush raised them from 42 to 54 percent over my objection. I thought it was imprudent and said so at the time.

Madam Chair, I yield 3 minutes to the gentleman from Pennsylvania (Mr. KANJORSKI).

Mr. KANJORSKI. Madam Chair, before I address the merits of the Republican substitute, I want to note that I had hoped we could have achieved bipartisanship during this debate on regulatory reform. As such, I hosted about a dozen gatherings, inviting Members from both sides of the aisle to hear diverse viewpoints from some of the brightest economic minds and business leaders in the country. I was also pleased that three of the four capital markets legislative proposals in this bill, the Democratic bill, gained bipartisan support during markup.

The Republicans also incorporated one of those bills, to create the Federal Insurance Office, into their substitute. Ultimately, however, the Republicans opted against supporting strong reform of financial regulation. Their substitute is inadequate and seems designed to protect Wall Street rather than to reform it.

Regulation of hedge funds and private pools of capital is a very important piece of the Democratic bill. In committee, this provision passed 67–1, and yet the Republican substitute ignores this issue.

As the rating agencies were reformed, which many Republicans voted for in the committee markup, the GOP substitute does absolutely nothing to address the issue of liability. And without liability, the Republican plan provides no accountability for the rating agencies. Because the status quo is not an option, rating agency reform is an essential part of the Democratic plan.

The Republican plan also does little to improve investor protections. Just this week, the Capital Markets Subcommittee held a hearing on the largest Ponzi scheme in U.S. history. The colossal failure of the Securities and Exchange Commission to detect and investigate this massive fraud after numerous leads demonstrates that we need reform. And yet under the Republican alternative it appears that nothing ever happened.

We double the funding of the commission and push for comprehensive organizational reform. They give the agency very little and do little to change the agency.

The GOP plan additionally chooses bankruptcy for systemically significant firms. Well, Lehman Brothers went through bankruptcy and is still in bankruptcy, which resulted in credit markets freezing up around the world. This is not a real solution.

In sum, H.R. 4173 reforms Wall Street for the protection of the consumer and the investor on Main Street. The Republican alternative, in contrast, represents business as usual for Wall Street.

We don't need more of the same contained in their plan. We need substantial reform found in H.R. 4173. Vote ''no'' on the Republican substitute.

Mr. BACHUS. Madam Chair, I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding.

Madam Chair, I rise in support of the Republican alternative.

It seems like every time we come down to debate this issue, we begin to focus on past history. History is good because we can learn from that, but I think we need to hear more about what the substantive issues are in this bill, what is happening, rather than to look at the past. We need to get it right, and I think the Republican alternative does that.

There's no question that we have a need to reform the financial industry, but for consumers, for the health of our financial services and the economy, we must get it right. But this bill isn't the answer. There are a few good bipartisan provisions in the underlying bill, but the good doesn't outweigh the bad.

America needs a financial recovery and reform bill, not a permanent Big Brother government bailout program. We need reforms that will facilitate competition in the marketplace and generate more choices for consumers. We need reform that will equip consumers with the information that they need to shop around and make the financial decisions that are best for their families.

We need a stronger regulatory regime to quickly expose, stop, and put behind bars any Wall Street crooks that break the law. And financial firms that fail should do just that: fail through a new, orderly bankruptcy process.

We also need greater transparency and improved regulation for over-the-counter derivatives. We must close the gaps in communication among regulators and give them the tools to be efficient and effective.

We need to get credit flowing again so that small businesses like those in my congressional district can get the financing to expand and create the jobs

that American families need so desperately.

That's responsible financial reform, and our Republican alternative aims to get us there.

Mr. FRANK of Massachusetts. Madam Chair, I reserve the balance of my time.

Mr. BACHUS. Madam Chair, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. I want to thank the ranking member, my good friend from Alabama, for yielding me the time. I would also like to thank him for his leadership on our committee over the past year.

I rise today in support of the Republican substitute.

My colleagues have a choice today: Do they want to perpetuate bailouts and continue to put taxpayers at risk or will they support the Republican substitute that ends bailouts?

There are two features of this bill I'm going to address.

The substitute creates a new chapter of the bankruptcy code. This new section, chapter 14, will allow for an expedient resolution of failing firms as there will be trained personnel who have the necessary skills to ensure an efficient resolution. This is not chapter 7 or chapter 11, as in the discussion we had in the committee, as my friends on the other side of the aisle have asserted; although, the bill does not prohibit a nonbank financial firm from pursuing these chapters if they so wish.

There is no taxpayer-funded bailout fund in our amendment. It is straightforward for all market participants. If you take on too much risk and fail, then you go through an expedited bankruptcy. The taxpayers will not pick up the tab. This is fair to all market participants and it's fair to the taxpayers, and I urge my colleagues to join us in ending the bailouts.

Another important section of the Republican substitute is that we address reforms to the GSEs, Fannie and Freddie. While there may not be consensus on the reforms proposed, this body must have an honest discussion about the future of these two entities and what role, if any, government should play. After all, a major component of the financial crisis was the failure of these two entities. To ignore their reform in a financial reform package is irresponsible.

I would urge support for the Republican substitute. This is the financial reform package that we need.

Mr. KANJORSKI. Madam Chair, I continue to reserve the balance of my time.

Mr. BACHUS. Madam Chair, I yield 2 minutes to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Madam Chair, the American people want more jobs and fewer bailouts. The Democratic majority will bring them fewer jobs and more bailouts. Their bill creates a permanent Wall Street bailout fund. The only reason to have a bailout fund is to bail people out.

The Republican bill says we're tired of the bailouts. No more bailouts. You cannot have a system where you privatize your profits and socialize your losses. That's what ''bailout nation'' is all about. The big get bigger, the small get smaller, the taxpayer gets poorer, and the economy becomes more political.

Jobs. The Democratic bill still believes that if we have an unelected czar who can ban credit products, who can ration credit products, that somehow we will have bliss in our economy. If you raise the price of capital, you get less capital. You cannot have capitalism without capital. Our small businesses are starving. We need more capital. This will simply cost the economy more jobs.

□ 1230

The Democratic bill fundamentally assaults the economic liberty of the American citizen. It says now you have to go on bended knee to Washington before you can put a credit card in your wallet or get a mortgage for your home. The Republican bill respects the liberties of the American citizen. It says we want to make sure that you have open and transparent information, but we respect your freedom, we respect your choices. We respect the freedom that this Nation represents.

Let's have more jobs, fewer bailouts. Let's respect the freedom of every American citizen. Reject the Democrats' bailout bill and support the Republican bill.

Mr. BACHUS. Madam Chairman, as I understand it, the chairman has one more speaker on his side so at this time I yield 2 minutes to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Madam Chair, the American people have spoken loud and clear. They have spoken that they are opposed to more taxpayer-funded bailouts. The American people have said they are opposed to job-destroying legislation. The American people have said they are opposed to growing and expanding and increasing the size and spending of the Federal Government.

The majority bill that we had before us earlier is a bill that fails on all counts to listen to the American public. There is no one on the other side of the aisle who can deny that their bill will continue taxpayer-funded bailouts. There is no one on the other side of the aisle who can deny that their bill will continue the destruction of jobs in this country.

And, finally, there is no one on the other side of the aisle who can honestly deny that their bill will not create a more expensive, expanding government. Their bill will create bailouts, destroy jobs, and create a bigger government.

Earlier the majority leader was on the floor and he was speaking in an amusing if not illuminating manner when he used a football analogy when he talked about the refs on the field. Under their bill, we will end up with a stadium with only refs on the field, maybe highly paid and highly charged with authority, bureaucrats and refs, but no players. There will be no players in the game any more. And, quite frankly, the American public will not be able to pay the ticket to admission to the stadium under their legislation.

I also found it somewhat amusing that the only example of deregulation that the majority leader could think to was a piece of legislation that he actually voted for. And in fact that of course was not deregulation at all.

So we have presented now a Republican substitute, a Republican substitute that listens to the American people, that provides the appropriate level of regulation. The Republican substitute will actually end taxpayer-funded bailouts. The Republican substitute will actually do so by making sure the responsible parties pay. The Republican substitute will end job-destroying legislation and practices and instead create a facility that will expand liquidity and credit in the marketplace so that we can create new and expansive number of jobs in this country. The Republican substitute will end the practice of growing and expanding the government as we have seen time and time again. Instead, the Republican substitute will make sure that we have a government that lives within its means. I stand here in support of the Republican substitute.

Mr. BACHUS. Madam Chair, at this time I yield 2 minutes to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Madam Chairman, the Republican alternative actually brings real reform to the regulatory process and not big government. The first thing that the Republican alternative does is it ends bailouts. The American people are tired of bailouts; and particularly they are tired of bailouts when they come at their expense. The other thing that the Republican substitute does is it gets the government out of picking winners and losers. If companies make bad decisions, they fail. If they make good decisions, they succeed.

The other part of the Republican plan is we say, you know what, if you are taking risky behavior, you are involved in businesses that cause more risk to the system, you have to have more capital. The other thing that the Republican plan does is it actually protects consumers and doesn't limit their choices. I think that is the big difference in this piece of legislation; this piece of legislation that the Democrats want to do, they want somebody else to make the choices for you. They have a credit czar, and that credit czar is going to tell you what kind of car loan, what kinds of student loan, and what kind of house loan you can get. I have said all along that I think the American people have enough sense to make their own decisions.

In fact, I just recently came back from Afghanistan where we have young

men and women who are deployed, and they are over there trying to protect the American people's ability to make their own choices. I hope they are not going to be disappointed when they find out that back here in the good old U.S. of A., where they have been defending our freedom and liberty, we are over here trying to pass legislation that will limit their choices, limit their choices to be able to have the kind of house loan or car loan or student loan. Or maybe they want to come back from serving this great country and this great Nation after their distinguished service, they want a small business loan, only to find out that the United States Congress is limiting the ability of banks and credit unions to provide new business loans for these men and women. I don't think that is what they are fighting for.

I urge Members to vote for the Republican substitute and vote against the underlying bill.

Mr. BACHUS. Madam Chair, I would like unanimous consent at this time to recognize our troops who are in the gallery today.

The Acting CHAIR. Under clause 7 of rule XVII, the chair cannot entertain that request.

Mr. BACHUS. Madam Chair, at this time I yield the balance of my time to the gentleman from Ohio (Mr. BOEHNER).

Mr. BOEHNER. Madam Chair, my colleagues, it has been quite a year. This House has been on a spending spree and a regulatory spree and a bailout spree that I could never have imagined in any of my prior 18 years here in Congress.

You know, it was a trillion-dollar spending plan, stimulus plan, that was supposed to be about creating jobs, and it turned into nothing more than a lot of big government spending; a budget that had trillion-dollar deficits on average for as far as the eye can see; and a trillion-dollar national energy tax that was going to create this giant bureaucracy and tax Americans over their gasoline, their electricity, and everything else that moves in America. Then we have the nearly trillion-dollar government takeover of our health care system. And people wonder why employers are frozen, why they are not hiring more employees when all of this is coming down the pike.

And if all of that wasn't bad enough, we have no idea what is going to happen to tax rates. There have been suggestions to increase taxes in many of the bills that have passed this House this year. And now we come to the granddaddy of all of them: the financial regulatory bill that is in front of us today.

All of us recognize there are shortcomings in our financial regulatory system; but I do believe that the overreach by my Democrat colleagues on this bill is really beyond imagination. It is going to have more bailouts for banks in this bill; nothing that will reform Fannie Mae and Freddie Mac, the real culprits at the beginning of this whole financial meltdown, but there is no reform in this bill when it comes to those two entities.

And if all of that isn't bad enough, to put more money in here to bail out bad actors is exactly what the American people don't want.

And so I rise in support of a commonsense regulatory approach offered by my Republican colleagues. I am going to congratulate SPENCER BACHUS and all of the members of his committee for the work they have done to put this commonsense alternative together that will fix the regulatory gaps that we have without bailouts, without tens of thousands of new Federal employees that we see in the underlying bill. I would hope that my colleagues would support it.

But if my colleagues don't support the alternative that is on the floor at this moment, when that vote comes, Republicans will offer a motion to recommit, a motion to recommit that will scrap the entire underlying bill. It will also say TARP ends on December 31 this year, and all of the funds that come back from TARP should be used to repay the Federal deficit. And, thirdly, we will bring down the debt limit commensurate with those repayments.

TARP was there for an emergency. Everyone involved in TARP over a year ago understood that when that money came back, it was to go back to the Treasury to reduce the Federal budget deficit. It wasn't to become a political slush fund that we have heard bandied about here over the last couple of weeks, all kinds of ideas about how to take TARP and use it for more bailouts and more spending from here in Washington.

And so I am going to ask my colleagues, if you've had enough of the bailouts, enough of TARP, let's do the right thing for the American people. They are already saying enough is enough. Let's end TARP, let's pay down the deficit, and if this substitute doesn't pass, you will have a chance to put an end to this entire process.

Mr. FRANK of Massachusetts. Madam Chair, I yield myself the balance of my time.

An example of the wildly excessive hyperbole that just came from the gentleman from New Jersey: increased regulation of derivatives; require overextended financial companies to have more capital; don't let people sell mortgages that will get people in trouble; and there will be no players on the field, there will be only refs. The cynical feeling that Republicans have toward regulation leads them to talk crazy.

My friend, the gentleman from Texas (Mr. NEUGEBAUER) said you will need permission to get a car loan. No sane person, including Mr. NEUGEBAUER, thinks that is true. As a matter of fact, over the objection of many of us, car loans are exempted from the bill he is widely exaggerating. So it is an inaccuracy built on an exaggeration.

What we have also is their great fear of not having in this bill the bailout that they want to attack. But before I get to that, let me take directly one of their arguments. The American people have said no more expansion of government. Not in the area certainly of financial regulation. Their view that the American people want no more restraints on Wall Street is wrong. Their view that the American people want nothing to be done about the form of executive compensation that is not only obscenely excessive, but destabilizing because of the way in which it is structured—so that is true, they do nothing effectively about executive compensation.

They say that the American people like derivatives to be spread out with no capital to back them up so when there are failures, you have trouble. And they carry through; they are right. I disagree vehemently that the American people think that the status quo with the financial industry was a good one.

One gentleman said, Well, you will increase the cost of capital. Yes, in some cases. I want to increase the cost of speculation. The problem with the way capital has been employed is it has been employed for useful purposes to gather up funds that could be used to produce goods and services; but for some, the means became the end. And yes, if we were to increase the cost of capital for some of the speculative trading that goes on, that would be a good thing. Less of that would be a good thing.

So let's put to the American people: Do you prefer the Republican position of doing literally nothing to rein in these abuses, or should we try to rein them in? And that leads to a difference in the bill. We are not simply in our bill saying let's deal with what happens when there is a failure. They say here in their bill, if there is a failure, let them go bankrupt and that's it.

We also say if there is an institution that is overextended, we let it fail and we have specific language that says no money can go to that institution or its shareholder or its board of directors. But unlike them, we don't think that you should wait until then. We don't think that it is responsible for society to say, Go ahead and fail; we don't care. We do care. We are not going to go to their aid the way it was done last year under section 13(3), which we have amended so it can't happen again, and you cannot have what the Bush administration did with 13(3) and the AIG. I don't think that they were wrong necessarily, but that is what they did. We stop that. But we think that you should step in and don't let them get to that point.

It is not healthy for society where you don't do anything about compensation, you don't do anything about derivatives, you don't regulate them at all, and you let them crash; but when they do crash, here is the argument: You have a permanent bailout fund.

□ 1245

Madam Chair, in their heads is the only place that permanent bailout fund exists. Well, maybe in their hearts, because it pains them to recognize that we have curtailed it.

Here's what the legislation actually says in a binding way and why their analogies to last year are so directly wrong.

Here is on page 397—I know it's a big bill, and maybe they couldn't get all the way through it. I apologize. We would have given them a reading guide if they had asked for it:

''There is established in the Treasury a separate fund to be known as the Systemic Dissolution Fund''—that's what they call the bailout fund—''to facilitate and provide for the orderly and complete dissolution of any failed financial company or companies that pose a systemic threat to the financial markets.'' And it pays the expenses of putting them out of business not from the taxpayers, but from an assessment on large financial companies; and that pains them.

They really do sympathize with Goldman Sachs, with JPMorgan Chase, with Morgan Stanley, with Bank of America, CitiCorp, yes, and hedge funds above $10 billion. We subject them to an assessment, and they say, Oh, we're so unfair. These wonderful, healthy companies, why should they have to pay for the bailouts? Because they have all been part of the system and they benefit from that safety net.

We go on to say, ''The Fund shall be available for use with respect to the dissolution of a covered financial company to cover the costs incurred by the receiver and to cover the costs of systematic stabilization actions. The Fund shall not be used in any manner to benefit any officer or director of such company.''

And it says earlier on when we talk about the establishment of that fund, on page 288, it can only be used, the money that comes from Morgan Stanley and Goldman Sachs and JPMorgan Chase, the objects of Republican sympathy. The poor dears; they won't have enough money to speculate and we won't have anybody to come and play football because they have been told not to speculate.

It says that they can only do this if such action is necessary for the purpose of financial stability and not for the purpose of preserving the covered financial company. And if there is a loan from taxpayers, it makes it very clear: Any funds from taxpayers shall be repaid—that's a loan—shall be repaid by a fixed assessment from these big companies; that the shareholders do not receive payment until other claims have been fully paid; and no payments are made to creditors until the taxpayers get their money back.

We ask that the substitute be rejected.

Mr. SMITH of Texas. Madam Chair, the Administration's and this Democratic majority's legislation is a massive, politically driven, government intervention in America's economic life.

Americans see this in the health care legislation that threatens government control over their lives. They see it in the cap-and-tax legislation that sacrifices the economy to the uncertain science of climate change. They see it in the Stimulus Bill and the federal budget that increases deficits and burdens our economy for generations.

And they see it in the legislation before us today.

This bill's giving so-called ''resolution authority'' to the federal government is a perfect example.

''Resolution authority'' is intended to address how to handle collapsing institutions that allegedly are ''too big to fail.'' Economists and legal experts point to the ''too big to fail'' mentality as the culprit that laid the groundwork for the September 2008 financial panic.

A key feature of the ''too big to fail'' approach is the provision of bailouts for failing firms. But bailouts only encourage risky behavior. If Congress authorizes the bail out of Wall Street every time a gamble doesn't pay off, what will deter bad business decisions in the future?

Rather than end billion dollar bailouts, today's legislation turns the ''too big to fail'' mentality into a cornerstone of Democrats' proposed reforms.

The bill gives special treatment to big firms; encourages risk; and gives government agencies the power to determine which firms live or die. In other words, the bill institutionalizes the mistakes that led to the 2008 financial collapse.

And consistent with the Democratic agenda, it empowers the federal government to intervene in the lives of our largest financial institutions.

The Republican substitute amendment rejects this big government ticket back to financial ruin. It slams the door shut on the bailout era and ''too big to fail.'' It renounces the power grab that lets federal agencies and government employees determine who lives and dies in our economy. It embraces the way the experts point to as the better path towards a healthier financial future.

With respect to failing financial institutions, the better way is bankruptcy reform.

The Republican substitute establishes a new chapter of the Bankruptcy Code to resolve failed non-bank financial institutions. It puts responsibility into the hands of non-partisan, transparent bankruptcy courts. It adds new provisions to help courts better handle these bankruptcies so that future crises may be better avoided.

The amendment creates one set of fair, predictable rules for all non-bank institutions. It rests on a long-standing body of precedent well understood by firms, investors, government and the public.

And the Republican substitute guarantees that not a single taxpayer dime will ever again be paid for a Wall Street bailout.

America's economy—and taxpayers' wallets—will not be safe until billion dollar bailouts and the notion that Wall Street firms are ''too big to fail'' rest in the dustbin of history.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Alabama (Mr. BACHUS), as modified by the order of the House of December 10, 2009.

The question was taken; and the Acting Chair announced that the noes appeared to have it.

Mr. BACHUS. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Alabama will be postponed.

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments printed in House Report 111–370 on which further proceedings were postponed, in the following order:

Amendment No. 19 by Mr. MARSHALL of Georgia.

Amendment No. 32 by Ms. SCHAKOWSKY of Illinois.

Amendment No. 35 by Mr. MINNICK of Idaho.

Amendment No. 36 by Mr. BACHUS of Alabama.

The Chair will reduce to 5 minutes the time for the second and fourth vote in this series.

AMENDMENT NO. 19 OFFERED BY MR. MARSHALL

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Georgia (Mr. MARSHALL) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been requested.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 188, noes 241, not voting 11, as follows:

[Roll No. 963]

AYES—188

Abercrombie	Davis (AL)	Higgins
Ackerman	Davis (CA)	Himes
Adler (NJ)	Davis (IL)	Hinchey
Andrews	DeFazio	Hinojosa
Baca	DeGette	Hirono
Baird	Delahunt	Hodes
Barrow	DeLauro	Holt
Bean	Dicks	Honda
Becerra	Dingell	Hoyer
Berkley	Doggett	Inslee
Berman	Doyle	Israel
Bishop (NY)	Edwards (MD)	Jackson (IL)
Blumenauer	Ellison	Jackson-Lee (TX)
Brady (PA)	Engel	Johnson (GA)
Braley (IA)	Eshoo	Johnson, E. B.
Brown, Corrine	Etheridge	Jones
Butterfield	Faleomavaega	Kagen
Capps	Farr	Kanjorski
Capuano	Fattah	Kaptur
Cardoza	Filner	Kennedy
Carnahan	Foster	Kildee
Carson (IN)	Frank (MA)	Kilpatrick (MI)
Castor (FL)	Fudge	Kilroy
Christensen	Garamendi	Kirkpatrick (AZ)
Chu	Giffords	Klein (FL)
Clarke	Gonzalez	Kucinich
Clay	Grayson	Langevin
Cleaver	Green, Al	Larson (CT)
Clyburn	Green, Gene	Lee (CA)
Cohen	Grijalva	Levin
Conyers	Gutierrez	Lewis (GA)
Cooper	Hall (NY)	Loebsack
Courtney	Hare	Lowey
Crowley	Hastings (FL)	Luján
Cummings	Heinrich	

Lynch
Maffei
Maloney
Markey (MA)
Marshall
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Pallone
Pascrell
Pastor (AZ)
Paul
Payne
Perlmutter
Peters
Pingree (ME)
Price (NC)
Rangel
Richardson
Ros-Lehtinen
Rothman (NJ)
Roybal-Allard
Ruppersberger
Ryan (OH)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schwartz
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Snyder
Speier
Stark
Sutton
Taylor
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Turner
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Woolsey
Wu
Yarmuth

NOES—241

Aderholt
Akin
Alexander
Altmire
Arcuri
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boccieri
Boehner
Bonner
Bono Mack
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carney
Carter
Cassidy
Castle
Chaffetz
Chandler
Childers
Coble
Coffman (CO)
Cole
Conaway
Connolly (VA)
Costa
Costello
Crenshaw
Cuellar
Culberson
Dahlkemper
Davis (KY)
Davis (TN)
Deal (GA)
Dent
Diaz-Balart, M.
Donnelly (IN)
Dreier
Driehaus
Duncan
Edwards (TX)
Ehlers
Ellsworth
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Gordon (TN)
Granger
Graves
Griffith
Guthrie
Hall (TX)
Halvorson
Harman
Harper
Hastings (WA)
Heller
Hensarling
Herger
Herseth Sandlin
Hill
Hoekstra
Holden
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jordan (OH)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kissell
Kline (MN)
Kosmas
Kratovil
Lamborn
Lance
Larsen (WA)
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
Lipinski
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Markey (CO)
Massa
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McIntyre
McKeon
McMahon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Mollohan
Moran (KS)
Murphy (NY)
Murphy, Tim
Myrick
Neugebauer
Nunes
Nye
Olson
Ortiz
Owens
Paulsen
Pence
Perriello
Peterson
Petri
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Putnam
Quigley
Radanovich
Rahall
Rehberg
Reichert
Reyes
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Roskam
Ross
Royce
Rush
Ryan (WI)
Scalise
Schmidt
Schock
Schrader
Scott (GA)
Sensenbrenner
Shadegg
Shimkus
Shuler
Shuster
Simpson
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Space
Spratt
Stearns
Stupak
Sullivan
Tanner
Teague
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Upton
Walden
Walz
Wamp
Westmoreland
Whitfield
Wilson (OH)
Wilson (SC)
Wittman
Wolf
Young (FL)

NOT VOTING—11

Baldwin
Bordallo
Diaz-Balart, L.
Lofgren, Zoe
Moran (VA)
Murtha
Norton
Pierluisi
Sessions
Slaughter
Young (AK)

□ 1317

Messrs. COBLE, SULLIVAN, ROGERS of Alabama, LUETKEMEYER, KINGSTON, ALTMIRE, BURGESS, COSTELLO, COSTA and RUSH changed their vote from ''aye'' to ''no.''

Messrs. PAUL, BAIRD, GUTIERREZ, JOHNSON of Georgia, LYNCH, ACKERMAN, Ms. DEGETTE and Mrs. NAPOLITANO changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

(By unanimous consent, Mr. HOYER was allowed to speak out of order.)

WELCOMING OUR ARMED FORCES

Mr. HOYER. Ladies and gentlemen of the House, we here like to refer to ourselves as the House of the people, the ''People's House'' as Bill Natcher used to refer to it. We exercise what our Founding Fathers set up as a free democracy, where the people can speak through freely elected Representatives. And very frankly, we are that because we have brave men and women who are willing to serve us in the Armed Forces of the United States.

From time to time, they have an opportunity to visit with us. It is not, under the rules, appropriate to directly address people who are in our gallery, but it is always in order to pay honor to those who serve us and serve us so well.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will continue.

There was no objection.

AMENDMENT NO. 32 OFFERED BY MS. SCHAKOWSKY

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 277, noes 149, not voting 14, as follows:

[Roll No. 964]

AYES—277

Abercrombie
Ackerman
Adler (NJ)
Akin
Altmire
Andrews
Arcuri
Baca
Baird
Barrow
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilbray
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Bright
Brown, Corrine
Brown-Waite, Ginny
Butterfield
Cao
Capito
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castle
Castor (FL)
Chandler
Childers
Christensen
Chu
Clarke
Clay
Cleaver
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Faleomavaega
Farr
Fattah
Filner
Fortenberry
Foster
Frank (MA)
Fudge
Garamendi
Gerlach
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilroy
Kind
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
Lee (CA)
Levin
Lewis (GA)
Lipinski
LoBiondo
Loebsack
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Paulsen
Payne
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Platts
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Reyes
Richardson
Rodriguez
Rogers (MI)
Ros-Lehtinen
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Smith (NJ)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Upton
Van Hollen
Velázquez
Visclosky
Walz
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NOES—149

Aderholt
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Broun (GA)
Brown (SC)
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Carter
Cassidy
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dreier
Duncan
Ehlers
Fallin
Flake
Fleming
Forbes
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kline (MN)
Lamborn
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Myrick
Neugebauer
Nunes
Olson
Paul
Pence
Pitts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rohrabacher
Rooney
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Walden
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (FL)

NOT VOTING—14

Baldwin
Bordallo
Clyburn
Kilpatrick (MI)
Lofgren, Zoe
Moran (VA)
Murtha
Norton
Pierluisi
Rangel
Sessions
Slaughter
Waters
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining on this vote.

□ 1327

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT NO. 35 OFFERED BY MR. MINNICK

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Idaho (Mr. MINNICK) on which further proceedings were postponed and on which the ayes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 208, noes 223, not voting 10, as follows:

[Roll No. 965]

AYES—208

Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Barrow
Bartlett
Barton (TX)
Berry
Biggert
Bilbray
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boren
Boucher
Boustany
Boyd
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Calvert
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Chandler
Childers
Coble
Coffman (CO)
Cole
Conaway
Costa
Crenshaw
Cuellar
Culberson
Davis (KY)
Davis (TN)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Herseth Sandlin
Hill
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kline (MN)
Kratovil
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
Markey (CO)
Marshall
Massa
Matheson
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McIntyre
McKeon
McMorris Rodgers
Melancon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Minnick
Mitchell
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Ortiz
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Shadegg
Shimkus
Shuler
Shuster
Simpson
Skelton
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Space
Stearns
Sullivan
Taylor
Teague
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (FL)

NOES—223

Abercrombie
Ackerman
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Bean
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boccieri
Boswell
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Christensen
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costello
Courtney
Crowley
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Faleomavaega
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Garamendi
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Higgins
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kissell
Klein (FL)
Kosmas
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lowey
Luján
Lynch
Maffei
Maloney
Markey (MA)
Matsui
McCarthy (NY)
McCollum
McDermott
McGovern
McMahon
McNerney
Meek (FL)
Meeks (NY)
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Nye
Oberstar
Obey
Olver
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Pelosi
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Sires
Smith (WA)
Snyder
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NOT VOTING—10

Baldwin
Bordallo
Lofgren, Zoe
Moran (VA)
Murtha
Norton
Pierluisi
Sessions
Slaughter
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining.

□ 1343

Mr. LINDER and Ms. MARKEY of Colorado changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT NO. 36, AS MODIFIED, OFFERED BY MR. BACHUS

The Acting CHAIR. The unfinished business is the demand for a recorded vote on the amendment offered by the gentleman from Alabama (Mr. BACHUS) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The Acting CHAIR. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIR. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 175, noes 251, not voting 14, as follows:

[Roll No. 966]

AYES—175

Ackerman
Aderholt
Akin
Alexander
Austria
Bachmann
Bachus
Barrett (SC)
Bartlett
Barton (TX)
Biggert
Bilbray
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonner
Bono Mack
Boozman
Boustany
Brady (TX)
Bright
Broun (GA)
Brown (SC)
Brown-Waite, Ginny
Buchanan
Burgess
Burton (IN)
Buyer
Camp
Campbell
Cantor
Cao
Capito
Carter
Cassidy
Castle
Chaffetz
Coble
Coffman (CO)
Cole
Conaway
Crenshaw
Culberson
Davis (KY)
Deal (GA)
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dreier
Duncan
Ehlers
Emerson
Fallin
Flake
Fleming
Forbes
Fortenberry
Foxx
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gingrey (GA)
Gohmert
Goodlatte
Granger
Graves
Griffith
Guthrie
Hall (TX)
Harper
Hastings (WA)
Heller
Hensarling
Herger
Hoekstra
Hunter
Inglis
Issa
Jenkins
Johnson (IL)
Johnson, Sam
Jones
Jordan (OH)
King (IA)
King (NY)
Kingston
Kirk
Kline (MN)
Lamborn
Lance
Latham
LaTourette
Latta
Lee (NY)
Lewis (CA)
Linder
LoBiondo
Lucas
Luetkemeyer
Lummis
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCarthy (CA)
McCaul
McClintock
McCotter
McHenry
McKeon
McMorris Rodgers
Mica
Miller (FL)
Miller (MI)
Moran (KS)
Murphy, Tim
Myrick
Neugebauer
Nunes
Olson
Paul
Paulsen
Pence
Petri
Pitts
Platts
Poe (TX)
Posey
Price (GA)
Putnam
Radanovich
Rehberg
Reichert
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Royce
Ryan (WI)
Scalise
Schmidt
Schock
Sensenbrenner
Shadegg
Shimkus
Shuster
Simpson
Smith (NE)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Terry
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden
Wamp
Westmoreland
Whitfield
Wilson (SC)
Wittman
Wolf
Young (FL)

NOES—251

Abercrombie
Adler (NJ)
Altmire
Andrews
Arcuri
Baca
Baird
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boccieri
Boren
Boswell
Boucher
Boyd
Brady (PA)
Braley (IA)
Brown, Corrine
Butterfield
Calvert
Capps
Capuano
Cardoza
Carnahan
Carney
Carson (IN)
Castor (FL)
Chandler
Childers
Christensen
Chu
Clarke
Clay
Cleaver
Clyburn
Cohen
Connolly (VA)
Conyers
Cooper
Costa
Costello
Courtney
Crowley
Cuellar
Cummings
Dahlkemper
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Donnelly (IN)
Doyle
Driehaus
Edwards (MD)
Edwards (TX)
Ellison
Ellsworth
Engel
Eshoo
Etheridge
Faleomavaega
Farr
Fattah
Filner
Foster
Frank (MA)
Fudge
Gallegly
Garamendi
Giffords
Gonzalez
Gordon (TN)
Grayson
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall (NY)
Halvorson
Hare
Harman
Hastings (FL)
Heinrich
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Holden
Holt
Honda
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (GA)
Johnson, E. B.
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kosmas
Kratovil
Kucinich
Langevin
Larsen (WA)
Larson (CT)
Lee (CA)
Levin
Lewis (GA)
Lipinski
Loebsack
Lowey
Luján
Lynch
Maffei
Maloney
Markey (CO)
Markey (MA)
Marshall
Massa
Matheson
McCarthy (NY)
McCollum
McDermott
McGovern
McMahon
McNerney
Meek (FL)
Meeks (NY)
Melancon
Michaud
Miller (NC)
Miller, Gary
Miller, George
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Murphy (NY)
Murphy, Patrick
Nadler (NY)
Napolitano
Neal (MA)
Nye
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor (AZ)
Payne
Perlmutter
Perriello
Peters
Peterson
Pingree (ME)
Polis (CO)
Pomeroy
Price (NC)
Quigley
Rahall
Rangel
Reyes
Richardson
Rodriguez
Ross
Rothman (NJ)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sablan
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sarbanes
Schakowsky
Schauer
Schiff
Schrader
Schwartz
Scott (GA)
Scott (VA)
Serrano
Sestak
Shea-Porter
Sherman
Shuler
Sires
Skelton
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Taylor
Teague
Thompson (CA)
Thompson (MS)
Tierney
Titus
Tonko
Towns
Tsongas
Van Hollen
Velázquez
Visclosky
Walz
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wexler
Wilson (OH)
Woolsey
Wu
Yarmuth

NOT VOTING—14

Baldwin
Bordallo
Lofgren, Zoe
Matsui
McIntyre
Moran (VA)
Murphy (CT)
Murtha
Norton
Oberstar
Pierluisi
Sessions
Slaughter
Young (AK)

ANNOUNCEMENT BY THE ACTING CHAIR

The Acting CHAIR (during the vote). There are 2 minutes remaining in this vote.

□ 1350

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. MCINTYRE. Madam Chair, during rollcall vote No. 966, I was unavoidably detained. Had I been present, I would have voted "no."

PERSONAL EXPLANATION

Ms. BORDALLO. Madam Speaker, yesterday and today I have been granted an official leave of absence by the House of Representatives and am in my district attending to official business. As such, I am unable to cast my votes in the Committee of the Whole House on the State of the Union on amendments to H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. If I was present for these votes, I would vote as follows and ask that the RECORD reflects these positions: "yes" on Mr. FRANK's amendment (rollcall vote 953); Mr. LYNCH's amendment (rollcall vote 955); Mr. MURPHY's amendment (rollcall vote 956); Mr. FRANK's amendment (rollcall vote 957); Mr. STUPAK's amendment (rollcall vote 958); Mr. STUPAK's amendment (rollcall vote 959); Mr. KANJORSKI's amendment (rollcall vote 960); Mr. PETER's amendment (rollcall vote 962); Mr. MARSHALL's amendment (rollcall vote 963); Ms. SCHAKOWSKY's amendment (rollcall vote 964); and "no" on Mr. SESSION's amendment (rollcall vote 954); Mr. MCCARTHY's amendment (rollcall vote 961); Mr. MINNICK's (rollcall vote 965); and Mr. BACHUS's amendment (rollcall vote 966).

The Acting CHAIR. There being no further amendments, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PASTOR of Arizona) having assumed the chair, Ms. EDWARDS of Maryland, Acting Chair of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4173) to provide for financial regulatory reform, to protect consumers and investors, to enhance Federal understanding of insurance issues, to regulate the over-the-counter derivatives markets, and for other purposes, pursuant to House Resolution 964, she reported the bill, as amended pursuant to House Resolution 956, back to the House with sundry further amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Pursuant to House Resolution 964, the question on adoption of the amendments will be put en gros.

The question is on the amendments.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. DENT. Mr. Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DENT. In its current form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Dent moves to recommit the bill, H.R. 4173, to the Committee on Financial Services, and in addition to the Committees on Agriculture, Energy and Commerce, the Judiciary, Rules, the Budget, Oversight and Government Reform, and Ways and Means, with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

SEC. 1. REPEAL OF THE TROUBLED ASSET RELIEF PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of law, the authorities provided under section 101(a) of the Emergency Economic Stabilization Act of 2008 (excluding section 101(a)(3)) and under section 102 of such Act shall terminate on December 31, 2009.